

rity of the freight forwarder falls below the amount required under this subsection.

"(7) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a freight forwarder registered under this chapter experiences financial failure or insolvency, the surety provider of the freight forwarder shall—

"(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (5);

"(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

"(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

"(i) all uncontested claims received during such period; or

"(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

"(8) PENALTIES.—

"(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

"(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000.

"(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide the financial security of a freight forwarder for 5 years.

"(9) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney's fees or administrative costs.

"(10) FINANCIAL SECURITY AND INSURANCE AMOUNT ASSESSMENT.—Every 5 years, the Secretary shall review, with public notice and comment, the amounts of the financial security and insurance required under this subsection to determine whether the amounts are sufficient to provide adequate financial security, and shall be authorized to increase the amounts, if necessary, based upon that determination."

(b) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations to implement and enforce the requirements of subsections (b) and (c) of section 13906 of title 49, United States Code, as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 1 year after the date of enactment of this Act.

(d) REVIEW OF SECURITY REQUIREMENTS.—Not later than 15 months after the date of enactment of this Act, the Inspector General of the Department of Transportation shall—

(1) review the regulations and enforcement practices of the Secretary under subsections (b) and (c) of section 13906 of title 49, United States Code, as amended by this Act; and

(2) make any recommendations to the Secretary that may be necessary to improve the enforcement of such regulations.

#### SEC. 6207. REGISTRATION FEE SYSTEM.

Section 13908(d)(1) is amended by striking "but shall not exceed \$300".

#### SEC. 6208. UNLAWFUL BROKERAGE ACTIVITIES.

(a) IN GENERAL.—Chapter 149 is amended by adding at the end the following:

##### "§ 14916. Unlawful brokerage activities

"(a) PROHIBITED ACTIVITIES.—A person may provide interstate brokerage services as a broker only if the person—

"(1) is registered under, and in compliance with, section 13904; and

"(2) has satisfied the financial security requirements under section 13906.

“(b) EXCEPTIONS.—Subsection (a) shall not apply to—

“(1) a non-vessel-operating common carrier (as defined in section 40102 of title 46);

“(2) an ocean freight forwarder (as defined in section 40102 of title 46);

“(3) a customs broker licensed in accordance with section 111.2 of title 19, Code of Federal Regulations; or

“(4) an indirect air carrier holding a Standard Security Program approved by the Transportation Security Administration, when arranging for inland transportation as part of an international through movement involving ocean transportation between the United States and a foreign port.

“(c) CIVIL PENALTIES AND PRIVATE CAUSE OF ACTION.—Any person who knowingly authorizes, consents to, or permits, directly or indirectly, either alone or in conjunction with any other person, a violation of subsection (a) is liable—

“(1) to the United States Government for a civil penalty in an amount not to exceed \$10,000 for each violation; and

“(2) to the injured party for all valid claims incurred without regard to amount.

“(d) LIABLE PARTIES.—The liability for civil penalties and for claims under this section for unauthorized brokering shall apply, jointly and severally—

“(1) to any corporate entity or partnership involved; and

“(2) to the individual officers, directors, and principals of such entities.”

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

“14916. Unlawful brokerage activities.”.

#### SEC. 6209. REQUIREMENT FOR REGISTRATION AND USDOT NUMBER.

(a) IN GENERAL.—Subchapter III of chapter 311 is amended by inserting after section 31133 the following:

##### “§ 31134. Requirement for registration and Department of Transportation number

“(a) IN GENERAL.—An employer or an employee of the employer may operate a commercial motor vehicle in interstate commerce only if the Secretary of Transportation registers the employer under this section and issues the employer a Department of Transportation number.

“(b) REGISTRATION.—Upon application for registration and a Department of Transportation number under this section, the Secretary shall register the employer if the Secretary determines that—

“(1) the employer is willing and able to comply with the requirements of this subchapter and chapter 51 if applicable; and

“(2)(A) during the 3-year period before the date of the filing of the application, the employer was not related through common stock, common ownership, common control, common management, or common familial relationship to any other person subject to safety regulations under this subchapter who, during such 3-year period, was unwilling or unable to comply with the requirements of this subchapter or chapter 51 if applicable; or

“(B) the employer has disclosed to the Secretary any relationship involving common stock, common ownership, common control, common management, or common familial relationship between that person and any other motor carrier.

“(c) REVOCATION OR SUSPENSION.—The Secretary shall revoke or suspend the registration of an employer issued under subsection (b) if the Secretary determines that—

“(1) the authority of the employer to operate as a motor carrier, freight forwarder, or broker pursuant to chapter 139 is revoked or suspended under section 13905(d)(1) or 13905(f); or

“(2) the employer has willfully failed to comply with the requirements for registration set forth in subsection (b).

“(d) COMMERCIAL REGISTRATION.—An employer registered under this section may not provide transportation subject to jurisdiction under subchapter I of chapter 135 unless the employer is also registered under section 13902 to provide such transportation.

“(e) STATE AUTHORITY.—Nothing in this section shall be construed as affecting the authority of a State to issue a Department of Transportation number under State law to a person operating in intrastate commerce.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 311 is amended by inserting after the item relating to section 31133 the following:

"31134. Requirement for registration and Department of Transportation number."

## Subtitle C—Commercial Motor Vehicle Safety

### SEC. 6301. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.

(a) GENERAL AUTHORITY.—Section 31102 is amended to read as follows:

#### "§ 31102. Motor carrier safety assistance program

"(a) GENERAL AUTHORITY.—The Secretary of Transportation shall administer a motor carrier safety assistance program to assist States with—

"(1) the development or implementation of programs for improving motor carrier safety; and

"(2) the enforcement of Federal regulations, standards, and orders (and compatible State regulations, standards, and orders) on—

"(A) commercial motor vehicle safety; and

"(B) hazardous materials transportation safety.

"(b) STATE PLANS.—

"(1) PROCEDURES.—The Secretary shall prescribe procedures for a State to participate in the program, including procedures under which the State shall submit a plan, in writing, to the Secretary in which the State agrees—

"(A) to assume responsibility for improving motor carrier safety in the State; and

"(B) to adopt and enforce Federal regulations, standards, and orders (and compatible State regulations, standards, and orders) on—

"(i) commercial motor vehicle safety; and

"(ii) hazardous materials transportation safety.

"(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall—

"(A) provide for implementation of performance-based activities, including deployment of technology, to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;

"(B) provide for implementation of a border commercial motor vehicle safety program and related enforcement activities if the State shares a land border with another country;

"(C) designate a State motor vehicle safety agency (in this paragraph referred to as the 'designated State agency') responsible for administering the plan throughout the State;

"(D) provide satisfactory assurances that the designated State agency has or will have the legal authority, resources, and qualified personnel necessary to enforce the regulations, standards, and orders;

"(E) provide satisfactory assurances that the State will devote adequate amounts to the administration of the plan and enforcement of the regulations, standards, and orders;

"(F) provide a right of entry and inspection to carry out the plan;

"(G) provide that all reports required under this section be submitted to the designated State agency and that the designated State agency will make the reports available to the Secretary on request;

"(H) provide that the designated State agency will adopt the reporting requirements and use the forms for recordkeeping, inspections, and investigations the Secretary prescribes;

"(I) require registrants of commercial motor vehicles to make a declaration of knowledge of applicable safety regulations, standards, and orders of the Government and the State;

"(J) provide that the State will grant maximum reciprocity for inspections conducted under the North American Inspection Standard through the use of a nationally accepted system that allows ready identification of previously inspected commercial motor vehicles;

"(K) ensure that activities described in subsection (f)(3)(B), if financed with grants under this section, will not diminish the effectiveness of the development and implementation of commercial motor vehicle safety programs described in subsection (a);

"(L) ensure that the designated State agency will coordinate the plan, data collection, and information systems with State highway safety programs under title 23;

"(M) ensure participation in appropriate Federal Motor Carrier Safety Administration information systems and other information systems by all appropriate jurisdictions receiving funding under this section;

"(N) provide satisfactory assurances that the State is willing and able to exchange information with other States in a timely manner;

"(O) provide satisfactory assurances that the State will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations related to commercial motor vehicle safety;

"(P) provide satisfactory assurances that the State will promote activities in support of national priorities, including—

"(i) activities aimed at removing impaired commercial motor vehicle drivers from the highways of the United States—

"(I) through adequate enforcement of regulations on the use of alcohol and controlled substances; and

"(II) by ensuring ready roadside access to alcohol detection and measuring equipment;

"(ii) activities aimed at providing an appropriate level of training to State motor carrier safety assistance program officers and employees on recognizing drivers impaired by alcohol or controlled substances; and

"(iii) interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out those interdiction activities;

"(Q) provide satisfactory assurances that the State has established a program to ensure that—

"(i) accurate, complete, and timely motor carrier safety data is collected and reported to the Secretary; and

"(ii) the State will participate in a national motor carrier safety data correction system prescribed by the Secretary;

"(R) ensure that the State will cooperate in the enforcement of financial responsibility requirements under sections 13906, 31138, and 31139 and regulations issued thereunder;

"(S) ensure consistent, effective, and reasonable sanctions;

"(T) ensure that roadside inspections will be conducted at a location that is adequate to protect the safety of drivers and enforcement personnel;

"(U) provide satisfactory assurances that the State will include, in the training manual for the licensing examination to drive a noncommercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of noncommercial and commercial motor vehicles;

"(V) provide satisfactory assurances that the State will enforce the registration requirements of sections 13902 and 31134 by prohibiting the operation of any vehicle discovered to be operated by a motor carrier—

"(i) without a registration issued under such sections; or

"(ii) beyond the scope of such registration;

"(W) provide satisfactory assurances that the State will conduct comprehensive and highly visible traffic enforcement and commercial motor vehicle safety inspection programs in high-risk locations and corridors; and

"(X) provide for implementation of activities to monitor the safety performance of motor carriers of passengers, including inspections of commercial motor vehicles designed or used to transport passengers; except that roadside inspections must be conducted at a station, terminal, border crossing, maintenance facility, destination, or other location where a motor carrier may make a planned stop, except in the case of an imminent or obvious safety hazard.

"(3) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—A plan submitted by a State under this subsection shall provide that the total expenditure of amounts of the State and political subdivisions of the State (not including amounts of the United States) for commercial motor vehicle safety programs and for enforcement of commercial motor vehicle size and weight limitations, drug interdiction, and State traffic safety laws and regulations under subsection (f) will be maintained at a level at least equal to the average level of that expenditure for the 3 most recent fiscal years ending before the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012.

"(B) CALCULATING STATE EXPENDITURES.—In calculating the average level of State expenditure, the Secretary—

- “(i) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and
    - “(ii) shall require the State to exclude Government amounts.
  - “(c) GUIDANCE AND STANDARDS.—
    - “(1) IN GENERAL.—Not later than October 1, 2013, the Secretary shall—
      - “(A) develop guidance on the effectiveness of specific enforcement and related activities in generating reductions in fatalities and crashes involving commercial motor vehicles; and
      - “(B) publish standards for data timeliness, accuracy, and completeness that will allow States to meet the objectives of this section and that are consistent with the standards issued under section 31106(a)(4).
    - “(2) OPTIMIZATION OF ALLOCATIONS.—The Secretary shall develop a tool for States to optimize allocations of motor carrier safety resources to carry out enforcement and related activities to meet the objectives of this section.
    - “(3) UPDATES OF GUIDANCE.—The Secretary shall update the guidance issued under paragraph (1)(A) periodically to reflect new information.
  - “(d) PERFORMANCE MEASURES.—
    - “(1) STATE TARGETS.—For fiscal year 2014, and each fiscal year thereafter, each State, in the plan submitted by that State under subsection (b), shall—
      - “(A) establish targets, in quantifiable metrics, for enforcement activities, data quality, and other benchmarks to reduce fatalities and crashes involving commercial motor vehicles;
      - “(B) select target activities in accordance with the Secretary’s latest guidance to ensure States pursue activities likely to generate maximum fatality and crash reduction; and
      - “(C) meet the standards for data published by the Secretary under subsection (c)(1)(B).
    - “(2) ANNUAL UPDATES OF STATE PLANS.—A State shall—
      - “(A) update its plan under subsection (b) annually to establish targets for the following fiscal year; and
      - “(B) submit the updated plan to the Secretary.
    - “(3) REQUIREMENTS FOR TARGETS.—If a State receives an increase in grant funds under this section in a fiscal year as compared to the previous fiscal year, the targets established by the State under paragraph (1) for the fiscal year shall exceed the levels achieved by the State in the previous fiscal year.
    - “(4) STATE REPORTS.—
      - “(A) INFORMATION ON FATALITIES AND CRASHES INVOLVING COMMERCIAL MOTOR VEHICLES.—Under the motor carrier safety assistance program, a State shall report to the Secretary the number and rate of fatalities and crashes involving commercial motor vehicles occurring in the State in the previous fiscal year.
      - “(B) OTHER INFORMATION.—A State shall include in the report required under subparagraph (A) information on commercial motor vehicles registered in the State and involved in crashes in such fiscal year and any other information requested by the Secretary.
    - “(5) ASSESSMENTS.—As part of the annual plan approval process under subsection (e), the Secretary shall assess whether—
      - “(A) a State met its targets in the previous fiscal year; and
      - “(B) targeted activities are reducing fatalities and crashes involving commercial motor vehicles.
  - “(e) PLAN REVIEW.—
    - “(1) APPROVAL PROCESS.—Before distributing grant funds under subsection (f) in a fiscal year, the Secretary shall—
      - “(A) review each State plan submitted to the Secretary under subsection (b), as updated by the State under subsection (d); and
      - “(B)(i) approve the plan if the Secretary determines that the plan is adequate to promote the objectives of this section; or
      - “(ii) disapprove the plan.
    - “(2) RESUBMITTAL.—If the Secretary disapproves a plan under this subsection, the Secretary shall—
      - “(A) give the State a written explanation; and
      - “(B) allow the State to modify and resubmit the plan for approval.
    - “(3) CONTINUOUS EVALUATION OF PLANS.—
      - “(A) IN GENERAL.—On the basis of reports submitted by the motor vehicle safety agency of a State with a plan approved under this subsection and

the Secretary's own investigations, the Secretary shall make a continuing evaluation of the way the State is carrying out the plan.

“(B) WITHDRAWAL OF APPROVAL.—

“(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for comment, a State plan previously approved under this subsection is not being followed or has become inadequate to ensure enforcement of the regulations, standards, or orders, the Secretary shall withdraw approval of the plan and notify the State.

“(ii) EFFECTIVE DATE.—The plan shall not be effective beginning on the date the notice is received.

“(iii) JUDICIAL REVIEW.—A State adversely affected by a withdrawal under this subparagraph may seek judicial review under chapter 7 of title 5.

“(C) ADMINISTRATIVE AND JUDICIAL PROCEEDINGS.—Notwithstanding a withdrawal of approval of a State plan under this paragraph, the State may retain jurisdiction in administrative or judicial proceedings begun before the date of the withdrawal if the issues involved are not related directly to the reasons for the withdrawal.

“(f) GRANTS TO STATES.—

“(1) IN GENERAL.—Subject to the availability of funds, the Secretary shall make grants to States for the development or implementation of programs under this section in accordance with paragraph (3).

“(2) ELIGIBILITY.—

“(A) IN GENERAL.—A State shall be eligible for a grant under this subsection in a fiscal year in an amount equal to the State's allocated amount determined under section 31104(f) if the State has in effect a State plan under subsection (b) that has been approved by the Secretary under subsection (e) for that fiscal year.

“(B) WITHHOLDING OF FUNDS.—In the case of a State that does not meet the requirements of subparagraph (A) in a fiscal year, the Secretary may withhold grant funds from a State's allocated amount determined under section 31104(f) for that fiscal year as follows:

“(i) The Secretary may withhold up to 25 percent of such funds if the State had a plan approved under subsection (e) for the fiscal year preceding the fiscal year of the grant, but has not had a plan approved under subsection (e) for the fiscal year of the grant.

“(ii) The Secretary may withhold up to 50 percent of such funds if the State had a plan approved under subsection (e) for the second fiscal year preceding the fiscal year of the grant, but has not had a plan approved under subsection (e) for the fiscal year of the grant and the preceding fiscal year.

“(iii) The Secretary may withhold up to 75 percent of such funds if the State had a plan approved under subsection (e) for the third fiscal year preceding the fiscal year of the grant, but has not had a plan approved under subsection (e) for the fiscal year of the grant and the 2 preceding fiscal years.

“(iv) The Secretary may withhold 100 percent of such funds if the State has not had a plan approved under subsection (e) for the fiscal year of the grant and the 3 preceding fiscal years.

“(C) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary shall make available to a State the grant funds withheld from the State for a fiscal year under subparagraph (B) if the Secretary approves the State's plan under subsection (e) on or before the last day of that fiscal year.

“(D) REALLOCATION OF WITHHELD FUNDS.—If the Secretary withholds grant funds from a State for a fiscal year under subparagraph (B), and the State does not have a plan approved under subsection (e) on or before the last day of that fiscal year, such funds shall be released to the Secretary for reallocation among the States under section 31104(f) in the following fiscal year.

“(3) USE OF GRANT FUNDS.—

“(A) IN GENERAL.—A State receiving a grant under this subsection shall use the grant funds for activities to further the State's plan under subsection (b).

“(B) USE OF GRANTS TO ENFORCE OTHER LAWS.—Subject to subparagraph (C), a State may use grant funds received under this subsection—

"(i) if carried out in conjunction with an appropriate inspection of a commercial motor vehicle to enforce Federal or State commercial motor vehicle safety regulations, for—

"(I) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

"(II) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle; and

"(ii) for documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations relating to noncommercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles.

**"(C) LIMITATIONS.—**

"(i) **EFFECT ON COMMERCIAL MOTOR VEHICLE SAFETY PROGRAMS.**—A State may use grant funds received under this subsection for an activity described in subparagraph (B) only if the activity will not diminish the effectiveness of commercial motor vehicle safety programs described in subsection (a).

"(ii) **ENFORCEMENT ACTIVITIES RELATING TO NONCOMMERCIAL MOTOR VEHICLES.**—A State may not use more than 5 percent of the total amount of grants received by the State under this subsection in a fiscal year for enforcement activities relating to noncommercial motor vehicles described in subparagraph (B)(ii) unless the Secretary determines a higher percentage will result in significant increases in commercial motor vehicle safety.

**"(g) ANNUAL REPORT.**—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an annual report that—

"(1) analyzes commercial motor vehicle safety trends among the States and documents the most effective commercial motor vehicle safety programs implemented with grants under this section;

"(2) describes the effect of activities carried out with grants made under this section on commercial motor vehicle safety; and

"(3) documents the number and rate of fatalities and crashes involving commercial motor vehicles by State."

**(b) CONFORMING AMENDMENT.**—Section 31103(a) is amended by striking "section 31102(b)(1)(E) of this title" and inserting "section 31102(b)(3)".

**(c) CLERICAL AMENDMENT.**—The analysis for chapter 311 is amended by striking the item relating to section 31102 and inserting the following:

"31102. Motor carrier safety assistance program."

**SEC. 6302. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.**

**(a) IN GENERAL.**—Section 31109 is amended to read as follows:

**"§ 31109. Performance and registration information systems management program**

**"(a) IN GENERAL.**—The Secretary shall carry out a performance and registration information systems management program to link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems as part of the motor carrier information system established under section 31106.

**"(b) DESIGN.**—The program shall enable a State to—

"(1) determine the safety fitness of a motor carrier or registrant—

"(A) when licensing or registering the motor carrier or registrant; or

"(B) while the license or registration is in effect; and

"(2) deny, suspend, or revoke the commercial motor vehicle registration of a motor carrier or registrant to whom the Secretary has issued an operations out-of-service order.

**"(c) PROGRAM PARTICIPATION.**—Not later than September 30, 2015, the Secretary shall require a State to participate in the program by—

"(1) complying with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under section 31106(a)(4);

"(2) having in effect a law providing the State with the authority to impose the sanctions described in paragraph (3)(A) on the basis of an out-of-service order issued by the Secretary; and

"(3) establishing and implementing a process, approved by the Secretary, to—  
 "(A) deny, suspend, or revoke the vehicle registration or seize the registration plates of a commercial motor vehicle registered to a motor carrier to whom the Secretary has issued an out-of-service order; and

"(B) reinstate the vehicle registration or return the registration plates of the commercial motor vehicle subject to sanctions under subparagraph (A) if the Secretary permits such carrier to resume operations after the date of issuance of such order.

"(d) FUNDING.—A State may use grant funds made available to the State under section 4126 of SAFETEA-LU (119 Stat. 1738) for each of fiscal years 2013 through 2016 to meet the requirements of this section for participation in the program under subsection (c)."

(b) CONFORMING AMENDMENTS.—Section 31106(b) is amended—

(1) by striking paragraphs (2) through (4);

(2) by striking "(b) PERFORMANCE AND REGISTRATION INFORMATION PROGRAM.—" and all that follows through "(1) INFORMATION CLEARINGHOUSE.—The Secretary" and inserting the following:

"(b) INFORMATION CLEARINGHOUSE.—The Secretary"; and

(3) by aligning the remaining text accordingly.

(c) CLERICAL AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31109 and inserting the following:

"31109. Performance and registration information systems management program."

**SEC. 6303. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT GRANTS.**

(a) IN GENERAL.—Section 4126(a) of SAFETEA-LU (119 Stat. 1738) is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking "and Federal" and all that follows through the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3) facilitate compliance with Federal and State commercial motor vehicle regulatory requirements; and

"(4) provide assistance for State participation in the performance and registration information systems management program under section 31109."

(b) AMOUNT OF GRANTS.—

(1) CORE DEPLOYMENT GRANTS.—Section 4126(c) of such Act (119 Stat. 1738) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

(2) EXPANDED DEPLOYMENT GRANTS.—Section 4126(d) of such Act (119 Stat. 1739) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraph (4) as paragraph (3).

(c) ELIGIBILITY.—Section 4126(e) of such Act (119 Stat. 1739) is amended—

(1) in paragraph (2)(B)—

(A) by inserting "in interstate commerce" after "efficiency"; and

(B) by striking "and" at the end;

(2) in paragraph (3) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) shall be participating not later than September 30, 2015, in the performance and registration information systems management program under section 31109 of title 49, United States Code."

(d) FEDERAL SHARE.—Section 4126(f) of such Act (119 Stat. 1739) is amended—

(1) by striking "The Federal" and inserting the following:

"(1) IN GENERAL.—The Federal"; and

(2) by adding at the end the following:

"(2) PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.—Notwithstanding any other provision of this subsection, the Federal share of the cost of a project relating to participation in the performance and registration information systems management program under section 31109 of



title 49, United States Code, shall be 100 percent for fiscal years 2013 through 2016.”.

**SEC. 6304. COMMERCIAL MOTOR VEHICLE SAFETY INSPECTION PROGRAMS.**

(a) **IN GENERAL.**—Section 31142(b) is amended to read as follows:

“(b) **INSPECTION OF VEHICLES AND RECORD RETENTION.**—

“(1) **REGULATIONS ON GOVERNMENT STANDARDS.**—The Secretary of Transportation shall prescribe regulations on Government standards for inspection of commercial motor vehicles and retention by employers of records of such inspections.

“(2) **CONTENTS OF STANDARDS.**—The standards shall provide for—

“(A) annual or more frequent inspections of a commercial motor vehicle designed or used to transport property unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection system; and

“(B) annual or more frequent inspections of a commercial motor vehicle designed or used to transport passengers.

“(3) **TREATMENT OF REGULATIONS.**—Regulations prescribed under this subsection shall be treated as regulations prescribed under section 31136.

“(4) **SPECIAL RULES FOR INSPECTION PROGRAM.**—Any inspection required under paragraph (2)(B) shall be conducted by, or under a program established by, the State in which the vehicle is registered. A roadside inspection conducted by a State or other jurisdiction shall not be considered an inspection for the purposes of meeting the requirements of paragraph (2)(B).”.

(b) **PERIODIC REVIEW OF STATE SAFETY INSPECTION PROGRAMS.**—The Secretary shall periodically review State safety inspection programs of commercial motor vehicles designed or used to transport passengers.

**SEC. 6305. AMENDMENTS TO SAFETY FITNESS DETERMINATION.**

On and after the date the Secretary publishes in the Federal register the final rule revising the safety fitness determination methodology established pursuant to 31144 of title 49, United States Code, to correspond with the Compliance Safety Accountability program, the Secretary shall consider Safety Recommendation H-99-6 of the National Transportation Safety Board, issued February 26, 1999, closed.

**SEC. 6306. NEW ENTRANT CARRIERS.**

(a) **SAFETY REVIEW.**—Section 31144(g)(1) is amended to read as follows:

“(1) **SAFETY REVIEW.**—The Secretary shall require, by regulation, each owner and operator issued a new registration under section 13902 or 31134 to undergo a safety review under this section—

“(A) except as provided by subparagraphs (B) and (C), within the first 18 months after the date on which the owner or operator begins operations under such registration;

“(B) in the case of an owner or operator with authority to transport hazardous materials, within the first 9 months after the date on which the owner or operator begins operations under such registration; and

“(C) in the case of an owner or operator with authority to transport passengers, within the first 90 days after the date on which the owner or operator begins operations under such registration.”.

(b) **NEW ENTRANT REGISTRATION.**—Section 31144(g)(4) is amended to read as follows:

“(4) **NEW ENTRANT REGISTRATION.**—

“(A) **IN GENERAL.**—Notwithstanding any other provision of this title, any new registration issued under section 13902 or 31134 shall each be designated as new entrant registration until the safety review required by paragraph (1) is completed.

“(B) **REQUIREMENT FOR ISSUANCE OF PERMANENT OPERATING AUTHORITY.**—A new registration issued to an owner or operator under section 13902 or 31134 shall become permanent after the owner or operator has passed the safety review required under paragraph (1).”.

(c) **FUNDING.**—Section 31144(g)(5) is amended to read as follows:

“(5) **FUNDING.**—

“(A) **IN GENERAL.**—A State shall carry out the requirements of this section with funds allocated to the State under section 31104(f).

“(B) **DETERMINATION.**—If the Secretary determines that a State or local government is not able to use government employees to conduct new entrant motor carrier safety reviews with funds allocated to the State under

section 31104(f), the Secretary may conduct for the State or local government the safety reviews that the State or local government is not able to conduct with such funds."

(d) **FEDERAL SHARE.**—Section 31103(b) is amended to read as follows:

"(b) **NEW ENTRANT MOTOR CARRIER SAFETY REVIEWS.**—

"(1) **INCREASE IN SHARE OF COSTS.**—Subject to paragraph (2), the Secretary may reimburse a State an amount that is up to 100 percent of the costs incurred by the State in a fiscal year for new entrant motor carrier safety reviews conducted under section 31144(g).

"(2) **LIMITATION.**—The increased Federal share provided under paragraph (1) shall apply with respect to reimbursements of costs described in paragraph (1) made using not more than 20 percent of the funds allocated to a State under section 31104(f) for a fiscal year. Any such reimbursements made using an amount in excess of 20 percent of such funds shall be subject to the cost-sharing requirements of subsection (a)."

(e) **CONFORMING AMENDMENT.**—Section 31144(g) is amended, in the subsection heading, by striking "SAFETY REVIEWS OF NEW OPERATORS" and inserting "NEW ENTRANT MOTOR CARRIER SAFETY REVIEWS".

#### SEC. 6307. IMPROVED OVERSIGHT OF MOTOR CARRIERS OF PASSENGERS.

Section 31144 is amended by adding at the end the following:

"(h) **SAFETY REVIEWS OF OWNERS AND OPERATORS OF INTERSTATE FOR-HIRE COMMERCIAL MOTOR VEHICLES DESIGNED OR USED TO TRANSPORT PASSENGERS.**—

"(1) **IN GENERAL.**—Not later than September 30, 2015, the Secretary shall determine the safety fitness of each owner, and each operator, of a commercial motor vehicle designed or used to transport passengers who the Secretary registers, on or before September 30, 2014 (including before the date of enactment of this subsection), under section 13902 or 31134.

"(2) **SAFETY FITNESS RATING.**—As part of the safety fitness determination required by paragraph (1), the Secretary shall assign a safety fitness rating to each owner and each operator described in paragraph (1).

"(3) **PERIODIC MONITORING.**—

"(A) **PROCESS.**—The Secretary shall establish a process, by regulation, for monitoring on a regular basis the safety performance of an owner or operator of a commercial motor vehicle designed or used to transport passengers, following the assignment of a safety rating to such owner or operator.

"(B) **ELEMENTS OF MONITORING AND SAFETY ENFORCEMENT.**—Regulations issued under subparagraph (A) shall provide for the following:

"(i) Monitoring of the safety performance, in critical safety areas (as defined by the Secretary, by regulation) of an owner or operator of a commercial motor vehicle designed or used to transport passengers (including by activities conducted onsite at the offices of the owner or operator or offsite).

"(ii) Increasingly more stringent interventions designed to correct unsafe practices of an owner or operator of a commercial motor vehicle designed or used to transport passengers.

"(iii) Periodic updates to the safety fitness rating of an owner or operator if the Secretary determines that such update will improve the safety performance of the owner or operator.

"(iv) Enforcement action, including determining that the owner or operator is not fit and may not operate a commercial motor vehicle under subsection (c)(2)."

#### SEC. 6308. DRIVER MEDICAL QUALIFICATIONS.

(a) **EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.**—Section 31149(c)(1)(D) is amended to read as follows:

"(D) develop requirements applicable to a medical examiner in order for the medical examiner to be listed in the national registry established under this section, including—

"(i) specific courses and materials that must be completed;

"(ii) at a minimum, self-certification requirements to verify that the medical examiner has completed specific training, including refresher courses, that the Secretary determines are necessary; and

"(iii) an examination developed by the Secretary for which a passing grade must be achieved."

(b) **ADDITIONAL OVERSIGHT OF LICENSING AUTHORITIES.**—

- (1) IN GENERAL.—Section 31149(c)(1) is amended—
- (A) in subparagraph (E) by striking “and” at the end;
  - (B) in subparagraph (F) by striking the period at the end and inserting “, and”; and
  - (C) by adding at the end the following:
    - “(G) review each year the implementation of commercial driver’s license requirements of a minimum of 10 States to assess the accuracy, validity, and timeliness of—
    - “(i) submission of physical examination reports and medical certificates to State licensing agencies; and
    - “(ii) the processing of such submissions by State licensing agencies.”.
- (2) INTERNAL OVERSIGHT POLICY.—
- (A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish an oversight policy and process within the Department for the purposes of carrying out the requirement of section 31149(c)(1)(G) of title 49, United States Code, as added by paragraph (1) of this subsection.
  - (B) EFFECTIVE DATE.—Section 31149(c)(1)(G) of title 49, United States Code, as added by paragraph (1) of this subsection, shall take effect on the date that the oversight policy and process is established pursuant to subparagraph (A).
- (c) DEADLINE FOR ESTABLISHMENT OF NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a national registry of medical examiners as required by section 31149(d)(1) of title 49, United States Code.

**SEC. 6309. COMMERCIAL MOTOR VEHICLE SAFETY STANDARDS.**

- (a) SAFETY STANDARDS FOR COMMERCIAL MOTOR VEHICLES OF PROPERTY.—
- (1) RESEARCH.—The Secretary shall conduct research on the need for roof strength, pillar strength, frontal and back wall strength, and other potential occupant protection standards for commercial motor vehicles of property.
  - (2) COMMERCIAL MOTOR VEHICLE OF PROPERTY DEFINED.—In this subsection, the term “commercial motor vehicle of property” means a motor vehicle used in commerce to transport property that has a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds, whichever is greater.
- (b) SAFETY STANDARDS FOR MOTORCOACHES.—
- (1) SAFETY STANDARDS FOR NEW MOTORCOACHES.—
    - (A) OCCUPANT PROTECTION SYSTEMS.—
      - (i) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall issue standards for motorcoach occupant protection systems that account for frontal impact collisions, side impact collisions, rear impact collisions, and rollovers. Such standards shall not eliminate or lessen the occupant protection standards in effect on the date of enactment of this Act and shall—
        - (I) be based on sound scientific research, extensive testing, and analysis by the National Highway Traffic Safety Administration, consistent with the recommendations of the National Transportation Safety Board regarding motorcoach occupant protection; and
        - (II) take into consideration the various types of motorcoaches and the various uses and configurations of the occupant compartment as well as local, State, and Federal size and weight limits and restrictions.
      - (ii) CONTENTS.—Such standards may include seatbelts or other occupant protection systems, passive or otherwise, for passengers, including those in child safety restraint systems.
      - (iii) CONSULTATION.—Prior to issuing such standards, the Secretary shall consult with affected parties, as appropriate, on the proceedings leading to the issuance of the standards required by this subparagraph. Any communications concerning such consultation shall be included in the public record of the proceedings leading to the issuance of such standards and shall be subject to public comment.
    - (B) ROOF STRENGTH.—
      - (i) RESEARCH AND TESTING.—The Secretary shall conduct research and testing on roof strength to determine the method or methods that provide adequate survival space for all seating positions.

(ii) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall issue roof strength standards for motorcoaches based on the results of such research and testing and taking into account all motorcoach window dimensions and highway size and weight restrictions.

(C) WINDOW GLAZING.—

(i) RESEARCH AND TESTING.—The Secretary shall conduct research and testing on advanced window glazing and securement to determine the best method or methods for window glazing to prevent motorcoach occupant ejection.

(ii) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall revise window glazing standards for motorcoaches based on the results of such research and testing and taking into account all motorcoach window dimensions and highway height and weight restrictions.

(D) FIRE PREVENTION AND MITIGATION.—

(i) RESEARCH AND TESTING.—The Secretary shall conduct research and testing to determine the most prevalent causes of motorcoach fires and the best methods to prevent such fires and to mitigate the effect of such fires, both inside and outside the motorcoach.

(ii) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall issue fire prevention and mitigation standards for motorcoaches, based on the results of the Secretary's research and testing, taking into account motorcoach highway size and weight restrictions.

(E) EMERGENCY EVACUATION DESIGN.—

(i) RESEARCH AND TESTING.—The Secretary shall conduct research and testing to determine any necessary changes in motorcoach design standards, including windows and doors, to improve motorcoach emergency evacuation.

(ii) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall issue motorcoach emergency evacuation design standards, including—

(I) window standards that enhance the use of windows for emergency evacuation to the maximum extent feasible, while not detracting from the window glazing standards to be issued under this paragraph; and

(II) door standards, including design of the wheelchair lift door for emergency evacuation use.

(iii) MOTORCOACH HIGHWAY SIZE AND WEIGHT RESTRICTIONS.—Such standards shall take into account motorcoach highway size and weight restrictions.

(F) GENERAL PROVISIONS.—

(i) EFFECT ON STATE AND LOCAL LAWS.—Notwithstanding any provision of chapter 301 of title 49, United States Code, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to a motorcoach crash avoidance and occupant protection system prior to the effective date of the regulations issued pursuant to this paragraph.

(ii) APPLICABILITY OF STANDARDS.—The standards issued under subparagraphs (A) through (E) shall require motorcoaches manufactured after the last day of 3-year period beginning on the date on which such standards are issued to be engineered and equipped to meet such standards.

(iii) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection or in the regulations issued pursuant to this subsection may be construed as indicating an intention by Congress to affect, change, or modify in any way the liability, if any, of a motorcoach manufacturer or motorcoach owner or operator under applicable law to buses or motorcoaches, manufactured and operated with or without passenger seat belts or other passenger restraint systems, prior to the effective date of the regulations issued under this subsection.

(2) SAFETY STANDARDS FOR EXISTING MOTORCOACHES.—

(A) IN GENERAL.—The Secretary may issue standards for motorcoaches that are manufactured before the date that is 3 years after the date on which the standards required under paragraph (1) are issued, taking into

account the limitations posed by the need to retrofit existing motorcoaches. Such standards shall have the same objectives as the standards required under subparagraphs (A) through (E) of paragraph (1), but may differ from such standards based on what is technically feasible for existing motorcoaches. Such standards are technically feasible if the equipment can be certified by the original equipment manufacturer as meeting requisite performance requirements and if the equipment is readily attachable subsequent to initial manufacture by the operator and enforced through readily visible inspection requiring no disassembly.

(B) STANDARDS FOR COMPONENT PARTS AND EQUIPMENT.—In lieu of issuing comprehensive standards for motorcoaches under subparagraph (A), the Secretary may develop standards for various component parts and equipment of motorcoaches that would increase occupant protection.

(C) EFFECTIVE DATE.—The effective date for the standards issued under this subsection shall be the same as the effective date for the standards issued under paragraph (1).

(D) CERTIFICATION.—The Secretary shall establish, by regulation, a system whereby the motorcoaches to which the standards issued under subparagraph (A) apply shall be certified as in compliance with such standards. Such certification shall be carried out by the Secretary or by private parties at the discretion and authorization of the Secretary.

(3) COMPLIANCE TIMETABLES.—

(A) EFFECTIVE DATE.—The effective date of the standards issued under paragraphs (1) and (2) shall be 3 years after the date on which such final standards are issued. All motorcoaches manufactured after such date shall comply with such standards.

(B) PHASED IN REQUIREMENTS.—

(i) FIRST PHASE.—Not later than 6 years after the effective date of the standards issued under paragraphs (1) and (2), a motorcoach owner or operator shall ensure that at least 50 percent of the motorcoaches used by the owner or operator comply with either the standards issued under paragraph (1) or the standards issued under paragraph (2), as appropriate.

(ii) SECOND PHASE.—Not later than 12 years after the effective date of the standards issued under paragraphs (1) and (2), a motorcoach owner or operator shall ensure that 100 percent of the motorcoaches used by the owner or operator comply with either of such standards.

(C) STATE AND LOCAL LAWS.—

(i) LIABILITY OF MOTORCOACH MANUFACTURERS AND OWNERS AND OPERATORS.—Nothing in this subsection may be construed to affect, change, or modify in any way the liability, if any, of a motorcoach manufacturer or motorcoach owner or operator under applicable law to buses or motorcoaches unless the manufacturer or owner or operator is shown not to be in compliance with the timetables set forth in subparagraphs (A) and (B).

(ii) PREEMPTION.—Notwithstanding any provision of chapter 301 of title 49, United States Code, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to any of the standards required by paragraphs (1) and (2) during the time periods set forth in subparagraphs (A) and (B).

(4) DEFINITION OF MOTORCOACH.—In this subsection, the term “motorcoach” means an over-the-road bus, characterized by an elevated passenger deck located over a baggage compartment.

SEC. 6310. CRASH AVOIDANCE TECHNOLOGY.

(a) STUDY.—The Secretary shall study the effectiveness of crash avoidance technologies as countermeasures to lessen the impact of distracted driving in commercial motor vehicle crashes.

(b) REPORT TO CONGRESS.—Not later than October 1, 2013, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the results of the study.

SEC. 6311. EXPANSION OF COLLISION MITIGATION STUDY.

(a) STUDY.—The Secretary shall expand the ongoing study of the Department on collision mitigation systems in commercial motor vehicles to include systems that can react to a stopped vehicle.

(b) REPORT TO CONGRESS.—Not later than October 1, 2013, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the results of the study.

## Subtitle D—Commercial Motor Vehicle Operators

### SEC. 6401. NATIONAL CLEARINGHOUSE FOR RECORDS RELATING TO ALCOHOL AND CONTROLLED SUBSTANCES TESTING OF COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) IN GENERAL.—Chapter 313 is amended by inserting after section 31306 the following:

#### “§ 31306a. National clearinghouse for records relating to alcohol and controlled substances testing

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall establish and maintain an information system that will serve as a national clearinghouse for records relating to the alcohol and controlled substances testing program applicable to operators of commercial motor vehicles under section 31306.

“(2) PURPOSES.—The purposes of the clearinghouse shall be—

“(A) to improve compliance with the requirements of the testing program; and

“(B) to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by operators of commercial motor vehicles.

“(3) CONTENTS.—The clearinghouse shall be a repository of records relating to violations of the testing program by individuals submitted to the Secretary in accordance with this section.

“(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure the ability for records to be submitted to the clearinghouse, and requested from the clearinghouse, on an electronic basis.

“(5) DEADLINE.—The Secretary shall establish the clearinghouse not later than 1 year after the date of enactment of this section.

“(b) EMPLOYMENT PROHIBITIONS.—

“(1) IN GENERAL.—An employer may permit an individual to operate a commercial motor vehicle or perform any other safety sensitive function only if the employer makes a request for information from the clearinghouse at such times as the Secretary shall specify, by regulation, and the information in the clearinghouse at the time of the request indicates that the individual—

“(A) has not violated the requirements of the testing program in the preceding 3-year period; or

“(B) if the individual has violated the requirements of the testing program during that period, is eligible to return to safety sensitive duties pursuant to the return-to-duty process established under the testing program.

“(2) VIOLATIONS.—For purposes of paragraph (1), an individual shall be considered to have violated the requirements of the testing program if the individual—

“(A) has a confirmed or verified, as applicable, positive alcohol or controlled substances test result under the testing program;

“(B) has failed or refused to submit to an alcohol or controlled substances test under the testing program; or

“(C) has otherwise failed to comply with the requirements of the testing program.

“(3) APPLICABILITY.—Paragraph (1) shall apply to an individual who performs a safety sensitive function for an employer as a full-time regularly employed driver, casual, intermittent, or occasional driver, or leased driver, or independent owner-operator contractor of such employer or, as determined by the Secretary, pursuant to another arrangement.

“(4) WRITTEN NOTICE THAT CLEARINGHOUSE IS OPERATIONAL.—The Secretary shall issue a written notice when the Secretary determines that the clearinghouse is operational and employers are able to use the clearinghouse to meet the requirements of section 382.413 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(5) EFFECTIVE DATE.—Paragraph (1) shall take effect on a date specified by the Secretary in the written notice issued under paragraph (4) that is not later than 30 days after the date of issuance of the written notice.

"(6) CONTINUED APPLICATION OF EXISTING REQUIREMENTS.—Following the date on which paragraph (1) takes effect, an employer shall continue to be subject to the requirements of section 382.413 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section, for a period of 3 years or for such longer period as the Secretary determines appropriate.

"(7) NOTICE OF REQUIREMENTS APPLICABLE TO EMPLOYERS.—The Secretary shall provide notice of the requirements applicable to employers under this section through published notices in the Federal Register.

"(c) REPORTING OF RECORDS.—

"(1) IN GENERAL.—The Secretary shall require employers and appropriate service agents, including medical review officers, to submit to the Secretary for inclusion in the clearinghouse records of violations of the testing program by individuals described in subsection (b)(3).

"(2) SPECIFIC REPORTING REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall require, at a minimum—

"(A) a medical review officer to report promptly, as determined by the Secretary, to the clearinghouse—

"(i) a verified positive controlled substances test result of an individual under the testing program; and

"(ii) a failure or refusal of an individual to submit to a controlled substances test in accordance with the requirements of the testing program; and

"(B) an employer (or, in the case of an operator of a commercial motor vehicle who is self-employed, the service agent administering the operator's testing program) to report promptly, as determined by the Secretary, to the clearinghouse—

"(i) a confirmed positive alcohol test result of an individual under the testing program; and

"(ii) a failure or refusal of an individual to provide a specimen for a controlled substances test in accordance with the requirements of the testing program.

"(3) UPDATING OF RECORDS.—The Secretary shall ensure that a record in the clearinghouse is updated to include a return-to-duty test result of an individual under the testing program.

"(4) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include all records of violations received pursuant to this subsection in the clearinghouse.

"(5) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record.

"(6) NOTIFICATION OF INDIVIDUALS.—The Secretary shall establish a process to provide notification to an individual of—

"(A) a submission of a record to the clearinghouse relating to the individual; and

"(B) any modification or deletion of a record in the clearinghouse pertaining to the individual, including the reason for the modification or deletion.

"(7) TIMELY AND ACCURATE REPORTING.—The Secretary may establish additional requirements, as appropriate, to ensure timely and accurate reporting of records to the clearinghouse.

"(8) DELETION OF RECORDS.—The Secretary shall delete a record of a violation submitted to the clearinghouse after a period of 3 years beginning on the date the individual is eligible to return to safety sensitive duties pursuant to the return-to-duty process established under the testing program.

"(d) ACCESS TO CLEARINGHOUSE BY EMPLOYERS.—

"(1) IN GENERAL.—The Secretary shall establish a process for an employer to request and receive records in the clearinghouse pertaining to an individual in accordance with subsection (b).

"(2) WRITTEN CONSENT OF INDIVIDUALS.—An employer shall obtain the written consent of an individual before requesting any records in the clearinghouse pertaining to the individual.

"(3) ACCESS TO RECORDS.—Upon receipt of a request for records from an employer under paragraph (1), the Secretary shall provide the employer with access to the records as expeditiously as practicable.

"(4) RECORDS OF REQUESTS.—The Secretary shall require an employer to maintain for a 3-year period—

"(A) a record of each request made by the employer for records from the clearinghouse; and

"(B) any information received pursuant to the request.

"(5) USE OF RECORDS.—

"(A) IN GENERAL.—An employer—

"(i) may obtain from the clearinghouse a record pertaining to an individual only for the purpose of determining whether a prohibition applies with respect to the individual to operate a commercial motor vehicle or perform any other safety sensitive function under subsection (b)(1); and

"(ii) may use the record only for such purpose.

"(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives a record from the clearinghouse pertaining to an individual shall protect the privacy of the individual and the confidentiality of the record, including taking reasonable precautions to ensure that information contained in the record is not divulged to any person who is not directly involved in determining whether a prohibition applies with respect to the individual to operate a commercial motor vehicle or perform any other safety sensitive function under subsection (b)(1).

"(e) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

"(1) IN GENERAL.—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse—

"(A) to learn whether a record pertaining to the individual is contained in the clearinghouse;

"(B) to verify the accuracy of the record;

"(C) to verify updates to the individual's record, including completion of a return-to-duty process under the testing program; and

"(D) to learn of requests for information from the clearinghouse regarding the individual.

"(2) DISPUTE PROCEDURE.—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in a record pertaining to the individual in the clearinghouse, except that the appeal process shall not be used to dispute or remedy the validity of a controlled substance or alcohol test result.

"(3) ACCESS TO RECORDS.—Upon receipt of a request for records from an individual under paragraph (1), the Secretary shall provide the individual with access to the records as expeditiously as practicable.

"(f) ACCESS TO CLEARINGHOUSE BY CHIEF COMMERCIAL DRIVER LICENSING OFFICIALS.—

"(1) IN GENERAL.—The Secretary shall establish a process for the chief commercial driver licensing official of a State to request and receive records pertaining to an individual from the clearinghouse.

"(2) USE OF INFORMATION.—The chief commercial driver licensing official of a State may not obtain from the clearinghouse a record pertaining to an individual for any purpose other than to take an action related to a commercial driver's license for the individual under applicable State law or to comply with section 31311(a)(22).

"(g) USE OF CLEARINGHOUSE INFORMATION FOR ENFORCEMENT PURPOSES.—The Secretary may use the records in the clearinghouse for the purposes of enforcement activities under this chapter.

"(h) DESIGN OF CLEARINGHOUSE.—

"(1) IN GENERAL.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

"(A) registration, authorization, and authentication of a user of the clearinghouse;

"(B) registration, authorization, and authentication of individuals required to report to the clearinghouse under subsection (c);

"(C) preventing information from the clearinghouse from being accessed by unauthorized users;

"(D) timely and accurate electronic submissions of data to the clearinghouse under subsection (c);



"(E) timely and accurate access to records from the clearinghouse under subsections (d), (e), and (f); and

"(F) updates to an individual's record related to compliance with the return-to-duty process under the testing program.

"(2) ARCHIVE CAPABILITY.—The clearinghouse shall be designed to allow for an archive of the receipt, modification, and deletion of records for the purposes of auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse.

"(3) SECURITY STANDARDS.—The clearinghouse shall be designed and administered in compliance with applicable Department of Transportation information technology security standards.

"(4) INTEROPERABILITY WITH OTHER SYSTEMS.—In establishing the clearinghouse and developing requirements for data to be included in the clearinghouse, the Secretary, to the maximum extent practicable, shall take into consideration—

"(A) existing information systems containing regulatory and safety data for motor vehicle operators;

"(B) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

"(C) the potential interoperability of the clearinghouse with existing and future information systems containing regulatory and safety data for motor vehicle operators.

"(i) PRIVACY.—

"(1) AVAILABILITY OF CLEARINGHOUSE INFORMATION.—The Secretary shall establish a process to make information available from the clearinghouse in a manner that is consistent with this section and applicable Federal information and privacy laws, including regulations.

"(2) UNAUTHORIZED INDIVIDUALS.—The Secretary may not provide information from the clearinghouse to an individual who is not authorized by this section to receive the information.

"(j) FEES.—

"(1) AUTHORITY TO COLLECT FEES.—

"(A) GENERAL AUTHORITY.—The Secretary may collect fees for requests for information from the clearinghouse.

"(B) AMOUNT TO BE COLLECTED.—Fees collected under this subsection in a fiscal year shall equal as nearly as possible the costs of operating the clearinghouse in that fiscal year, including personnel costs.

"(C) RECEIPTS TO BE CREDITED AS OFFSETTING COLLECTIONS.—The amount of any fee collected under this subsection shall be—

"(i) credited as offsetting collections to the account that finances the activities and services for which the fee is imposed; and

"(ii) available without further appropriation for such activities and services until expended.

"(2) LIMITATION.—The Secretary shall ensure that an individual requesting information from the clearinghouse in order to dispute or remedy an error in a record pertaining to the individual pursuant to subsection (e)(2) may obtain the information without being subject to a fee authorized by paragraph (1).

"(k) ENFORCEMENT.—An employer, and any person acting as a service agent, shall be subject to civil and criminal penalties for a violation of this section in accordance with section 521(b).

"(l) DEFINITIONS.—In this section, the following definitions apply:

"(1) CHIEF COMMERCIAL DRIVER LICENSING OFFICIAL.—The term 'chief commercial driver licensing official' means the official in a State who is authorized—

"(A) to maintain a record about a commercial driver's license issued by the State; and

"(B) to take action on a commercial driver's license issued by the State.

"(2) CLEARINGHOUSE.—The term 'clearinghouse' means the clearinghouse to be established under subsection (a).

"(3) EMPLOYER.—Notwithstanding section 31301, the term 'employer' means a person or entity employing 1 or more employees (including an individual who is self-employed) that is subject to Department of Transportation requirements under the testing program. The term does not include a service agent.

"(4) MEDICAL REVIEW OFFICER.—The term 'medical review officer' means a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated under the testing program and evaluating medical explanations for certain controlled substances test results.

"(5) SAFETY SENSITIVE FUNCTION.—The term 'safety sensitive function' has the meaning such term has under part 382 of title 49, Code of Federal Regulations, or any successor regulation.

"(6) SERVICE AGENT.—The term 'service agent' means a person or entity, other than an employee of an employer, who provides services covered by part 40 of title 49, Code of Federal Regulations, or any successor regulation, to employers or employees (or both) under the testing program, and the term includes a medical review officer.

"(7) TESTING PROGRAM.—The term 'testing program' means the alcohol and controlled substances testing program established under section 31306."

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 31306 the following:

"31306a. National clearinghouse for records relating to alcohol and controlled substances testing."

(c) PENALTIES.—

(1) APPLICATION OF PENALTY.—Section 31306(j) is amended by inserting "An employer, including an individual who is self-employed, shall be subject to civil and criminal penalties in accordance with section 521(b) for a violation of this section." before "This section".

(2) VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATIONS AND OPERATORS.—Section 521(b) is amended—

(A) in paragraph (1)(A) by inserting "31306, 31306a," before "31310(g)(1)(A)";

(B) in paragraphs (2)(A), (2)(B), and (6)(A) by inserting "31306, 31306a, or" before "31502"; and

(C) in paragraph (5)(A) by inserting "31306, 31306a," before "or 31502".

(3) CONTROLLED SUBSTANCE OR ALCOHOL TESTING.—Any person acting as a service agent under the Secretary's regulations in part 40 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, who violates the requirements prescribed by the Secretary for conducting alcohol or controlled substances testing under such part or any related regulation of the Department shall be liable to the United States Government for a civil penalty of not more than \$10,000 for each violation. Each day that a violation continues shall constitute a separate violation.

#### SEC. 6402. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue final regulations establishing minimum training requirements for commercial motor vehicle operators.

(b) REQUIREMENTS.—The regulations shall—

(1) require commercial motor vehicle operators, before obtaining a commercial driver's license for the first time or upgrading from one class of commercial driver's license to another, to receive training that meets the requirements established by the Secretary;

(2) address the knowledge and skills necessary for an operator of a commercial motor vehicle to safely operate a commercial motor vehicle;

(3) address the specific and additional training needs of commercial motor vehicle operators seeking passenger or hazardous materials endorsements;

(4) require instruction that is effective for acquiring the knowledge and skills referred to in paragraphs (2) and (3);

(5) require the issuance of a certification that a commercial motor vehicle operator has met the requirements established by the Secretary; and

(6) require a training provider (including public or private driving schools, motor carriers, or owners or operators of a commercial motor vehicle) offering training that results in the issuance of a certification to an operator under paragraph (5) to demonstrate that such training meets the requirements of the regulations, through a process established by the Secretary.

(c) COMMERCIAL DRIVER'S LICENSE UNIFORM STANDARDS.—Section 31308(1) is amended to read as follows:

"(1) an individual issued a commercial driver's license—

"(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

"(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 4042 of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012;"

## SEC. 6403. COMMERCIAL DRIVER'S LICENSE PROGRAM.

(a) IN GENERAL.—Section 31309(e)(4)(A) is amended by striking the period at the end and inserting “and must use the systems to receive and submit conviction and disqualification data.”

## (b) REQUIREMENTS FOR STATE PARTICIPATION.—

(1) IN GENERAL.—Section 31311(a) is amended—

(A) in paragraph (5) by striking “At least” and all that follows through “regulation,” and inserting the following: “Within the time period the Secretary prescribes by regulation,”; and

(B) by adding at the end the following:

“(22) Before renewing or issuing a commercial driver's license to an individual, the State shall request information pertaining to the individual from the drug and alcohol clearinghouse maintained under section 31306a.

“(23) The State shall ensure that the State's commercial driver's license information system complies with applicable Federal information technology standards.”

(2) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—Section 31311 is amended by adding at the end the following:

## “(d) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—

“(1) IN GENERAL.—A State shall develop and submit to the Secretary for approval a plan for complying with the requirements of subsection (a) in the period beginning on the date that the plan is approved and ending on September 30, 2017.

“(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—

“(A) the actions that the State must take to address any deficiencies in the State's commercial driver's license program, as identified by the Secretary in the most recent audit of the program; and

“(B) other actions that the State must take to comply with the requirements of subsection (a).

## “(3) PRIORITY.—

“(A) IMPLEMENTATION SCHEDULE.—A plan submitted by a State under paragraph (1) shall include a schedule for the implementation of the actions identified under paragraph (2).

“(B) DEADLINE FOR COMPLIANCE WITH REQUIREMENTS.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the requirements of subsection (a) not later than September 30, 2017.

## “(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

“(A) review a plan submitted by a State under paragraph (1); and

“(B)(i) approve the plan if the Secretary determines that the plan is adequate to promote the objectives of this section; or

“(ii) disapprove the plan.

“(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under this subsection, the Secretary shall—

“(A) provide the State a written explanation of the disapproval; and

“(B) allow the State to modify and resubmit the plan for approval.

“(6) PLAN UPDATES.—The Secretary may require States to review and update plans, as appropriate.”

(3) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—Section 31311 is further amended by adding at the end the following:

“(e) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—On an annual basis, the Secretary shall—

“(1) conduct a comparison of the relative levels of compliance by States with the requirements of subsection (a); and

“(2) make available to the public the results of the comparison, using a mechanism that the Secretary determines appropriate.”

## (c) GRANTS FOR COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION.—

(1) IN GENERAL.—Section 31313(a) is amended to read as follows:

## “(a) GRANTS FOR COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION.—

“(1) IN GENERAL.—The Secretary of Transportation may make a grant to a State in a fiscal year to assist the State in complying with the requirements of section 31311.

“(2) ELIGIBILITY.—A State shall be eligible for a grant under this subsection if the State has in effect a commercial driver's license program plan approved by the Secretary under section 31311(d).

"(3) USES OF GRANT FUNDS.—A State may use grant funds under this subsection—

"(A) to comply with section 31311; and

"(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of section 31311 and this section, to improve its implementation of its commercial driver's license program, including expenses—

"(i) for computer hardware and software;

"(ii) for publications, testing, personnel, training, and quality control;

"(iii) for commercial driver's license program coordinators; and

"(iv) to establish and implement a system to notify an employer of an operator of a commercial motor vehicle of a suspension or revocation of such operator's driver's license.

"(C) PROHIBITIONS.—A State may not use grant funds under this subsection to rent, lease, or buy land or buildings.

"(4) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this subsection only if the State provides assurances satisfactory to the Secretary that the total expenditure of amounts of the State and political subdivisions of the State (not including amounts of the United States) for the State's commercial driver's license program will be maintained at a level that at least equals the average level of that expenditure by the State and political subdivisions of the State for the most recent 3 fiscal years ending before the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012."

(2) APPORTIONMENT.—Section 31313 is amended—

(A) by striking subsections (b) and (c);

(B) by redesignating subsection (d) as subsection (b); and

(C) by striking subsection (b) (as so redesignated) and inserting the following:

"(b) APPORTIONMENT.—

"(1) APPORTIONMENT FORMULA.—Subject to paragraph (2), the amounts made available to carry out this section for a fiscal year shall be apportioned among the States in the ratio that—

"(A) the number of commercial driver's licenses issued in each State; bears to

"(B) the total number of commercial driver's licenses issued in all States.

"(2) MINIMUM APPORTIONMENT.—The apportionment to each State that has in effect a commercial driver's license program plan approved by the Secretary under section 31311(d) shall be not less than one-half of 1 percent of the total funds available to carry out this section."

(3) CONFORMING AMENDMENT.—The section heading for section 31313 is amended by striking "improvements" and inserting "implementation".

(4) CLERICAL AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31313 and inserting the following:

"31313. Grants for commercial driver's license program implementation."

#### SEC. 6404. COMMERCIAL DRIVER'S LICENSE PASSENGER ENDORSEMENT REQUIREMENTS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall review and assess the current knowledge and skill testing requirements for a commercial driver's license passenger endorsement to determine what improvements to the knowledge test or examination of driving skills are necessary to ensure the safe operation of commercial motor vehicles designed or used to transport passengers.

(b) REPORT.—Not later than 120 days after completion of the review and assessment under subsection (a), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(1) a report on the review and assessment conducted under subsection (a);

(2) a plan to implement any changes to the knowledge and skills tests; and

(3) a timeframe by which the Secretary will implement the changes.

#### SEC. 6405. COMMERCIAL DRIVER'S LICENSE HAZARDOUS MATERIALS ENDORSEMENT EXEMPTION.

(a) IN GENERAL.—The Secretary may not require an individual with a class A commercial driver's license to obtain a hazardous materials endorsement under part 383 of title 49, Code of Federal Regulations (or any successor regulation), in order

to operate a service vehicle carrying diesel fuel in quantities of 3,785 liters (1,000 gallons) or less if—

(1) the tank containing such fuel is clearly marked with a placard reading “Diesel Fuel”; and

(2) the individual is acting within the scope of the individual’s employment as an employee of any of the following farm-related service industries:

(A) Agri-chemical business.

(B) Custom harvesters.

(C) Farm retail outlets and suppliers.

(D) Livestock feeders.

(b) **IMPLEMENTATION.**—The Secretary shall carry out subsection (a) in a manner consistent with the exemption provided to restricted commercial driver’s license holders under section 383.3(f) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

**SEC. 6406. PROGRAM TO ASSIST VETERANS TO ACQUIRE COMMERCIAL DRIVER’S LICENSES.**

(a) **ESTABLISHMENT.**—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Defense and in cooperation with the States, shall establish accelerated licensing procedures to assist veterans to acquire commercial driver’s licenses.

(b) **ACCELERATED LICENSING PROCEDURES.**—The procedures established under subsection (a) shall be designed to be applicable to any veteran who—

(1) is attempting to acquire a commercial driver’s license; and

(2) obtained, during military service, driving experience that, in the determination of the Secretary, makes the use of accelerated licensing procedures appropriate.

(c) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **COMMERCIAL DRIVER’S LICENSE.**—The term “commercial driver’s license” has the meaning given that term in section 31301 of title 49, United States Code.

(2) **STATE.**—The term “State” has the meaning given that term in section 31301 of title 49, United States Code.

(3) **VETERAN.**—The term “veteran” has the meaning given that term in section 101 of title 38, United States Code.

## Subtitle E—Motor Carrier Safety

**SEC. 6501. MOTOR CARRIER TRANSPORTATION.**

Section 13506(a)(4) is amended by inserting “in interstate or intrastate commerce” after “a motor vehicle”.

**SEC. 6502. HOURS OF SERVICE STUDY.**

(a) **HOURS OF SERVICE STUDY.**—

(1) **IN GENERAL.**—Not later than March 31, 2013, the Secretary shall complete a field study on the efficacy of the restart rule published on December 27, 2011 (in this section referred to as the “2011 restart rule”), applicable to operators of commercial motor vehicles of property subject to maximum driving time requirements of the Secretary.

(2) **REQUIREMENT.**—The study shall expand upon the results of the laboratory-based study relating to commercial motor vehicle driver fatigue sponsored by the Federal Motor Carrier Safety Administration presented in the report of December 2010 titled “Investigation into Motor Carrier Practices to Achieve Optimal Commercial Motor Vehicle Driver Performance: Phase I”.

(3) **CRITERIA.**—In conducting the field study, the Secretary shall ensure that—

(A) the methodology for the field study is consistent, to the maximum extent possible, with the laboratory-based study methodology;

(B) the data collected is representative of the drivers and motor carriers affected by the maximum driving time requirements;

(C) the analysis is statistically valid; and

(D) the field study follows the plan for the “Scheduling and Fatigue Recovery Project” developed by the Federal Motor Carrier Safety Administration.

(b) **REPORT TO CONGRESS.**—Not later than April 30, 2013, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Rep-



representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the results of the study.

(c) **RULE MODIFICATION AND IMPLEMENTATION.**—

(1) **APPLICABLE RESTART RULE.**—The restart rule published on November 19, 2008, shall remain in effect until the Secretary completes the field study on the 2011 restart rule under subsection (a).

(2) **IMPLEMENTATION ON SCHEDULE.**—If the Secretary determines that the results of the field study support the 2011 restart rule, the rule shall be implemented beginning on the effective date established in the rule.

(3) **MODIFICATION.**—

(A) **IN GENERAL.**—If the Secretary determines that the results of the field study do not support the 2011 restart rule, the Secretary shall—

(i) stay the implementation of the rule; and

(ii) conduct a rulemaking to modify the rule based on the results of the study.

(B) **INTERIM RULE.**—If the Secretary stays the implementation of the 2011 restart rule under subparagraph (A)(i), the restart rule published on November 19, 2008, shall remain in effect until the effective date of a final rule issued under subparagraph (A)(ii).

**SEC. 6503. ELECTRONIC LOGGING DEVICES.**

(a) **IN GENERAL.**—If the Secretary issues regulations regarding electronic logging devices to be used to monitor compliance with the Secretary's requirements for hours of service of drivers under part 395 of title 49, Code of Federal Regulations, the regulations shall include performance standards.

(b) **PERFORMANCE STANDARDS AND CERTIFICATION CRITERIA.**—

(1) **PERFORMANCE STANDARDS.**—Any performance standards issued under subsection (a) shall ensure, at a minimum, that an electronic logging device installed in a commercial motor vehicle—

(A) is synchronized to the operation of the vehicle engine or is capable of recognizing when the vehicle is being operated;

(B) is able to identify each individual who operates the vehicle and track the periods during which such individual operates the vehicle;

(C) automatically creates a record of all changes in duty status necessary to determine compliance with part 395 of title 49, Code of Federal Regulations;

(D) enables law enforcement personnel to access information contained in the recorder quickly and easily during a roadside inspection; and

(E) is tamperproof.

(2) **CERTIFICATION CRITERIA.**—

(A) **IN GENERAL.**—If the Secretary issues regulations described in subsection (a), the Secretary, in issuing the regulations, shall establish the criteria and a process for the certification of electronic logging devices to ensure that such devices meet the performance standards issued under subsection (a).

(B) **EFFECT OF NONCERTIFICATION.**—Electronic logging devices that are not certified in accordance with the certification process established under subparagraph (A) shall not be acceptable evidence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

(3) **ADDITIONAL REQUIREMENTS.**—If the Secretary issues regulations described in subsection (a), the Secretary, in issuing the regulations, shall—

(A) define a standardized user interface to aid vehicle operator compliance and law enforcement reviews;

(B) establish a secure process for—

(i) standardized and unique vehicle operator identification;

(ii) data access;

(iii) data transfer for vehicle operators between motor vehicles;

(iv) data storage for motor carriers; and

(v) data transfer and transportability for law enforcement;

(C) establish a standard security level for electronic logging devices to be tamperproof; and

(D) establish rules necessary to ensure that electronic logging devices will not be used to harass a vehicle operator.

(c) **ADDITIONAL CONSIDERATIONS.**—If the Secretary issues regulations described in subsection (a), the Secretary, in issuing the regulations, shall—

(1) evaluate the ability of electronic logging device technologies that meet the performance standards described in subsection (b)—

(A) to record accurately the time an individual operating a commercial motor vehicle spends on duty but not driving, including time spent loading and unloading; and

(B) to ensure all time on duty is accounted for and cannot be altered or otherwise tampered with by the operator or motor carrier;

(2) reduce or eliminate requirements for drivers and motor carriers to retain supporting documentation associated with paper-based records of duty status if—

(A) data contained in an electronic logging device supplants such documentation; and

(B) using such data without paper-based records does not diminish the Secretary's ability to audit and review compliance with the Secretary's hours of service regulations;

(3) include such measures as the Secretary determines are necessary to protect the privacy of individuals whose personal information is contained in an electronic logging device;

(4) include such measures as are necessary to ensure that any information collected by the electronic logging device is used by enforcement personnel only for the purpose of determining compliance with hours-of-service requirements and is stored no longer than necessary under the rules; and

(5) include such measures as are necessary to prohibit public access to data collected by electronic logging devices.

(d) USE OF DATA.—

(1) IN GENERAL.—The Secretary may utilize information contained in an electronic logging device only to enforce the Secretary's motor carrier safety and related regulations, including record-of-duty status regulations.

(2) MEASURES TO PRESERVE CONFIDENTIALITY OF PERSONAL DATA.—The Secretary shall institute appropriate measures to preserve the confidentiality of any personal data contained in an electronic logging device and disclosed in the course of actions taken by the Secretary or law enforcement officials to enforce the regulations referred to in paragraph (1).

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given that term in section 31132 of title 49, United States Code.

(2) ELECTRONIC LOGGING DEVICE.—The term "electronic logging device" means an electronic device that acquires and stores data showing the record of duty status of the vehicle operator.

(3) TAMPERPROOF.—The term "tamperproof" means to not allow any individual to cause an electronic device to record the incorrect duty status of a commercial motor vehicle operator under part 395 of title 49, Code of Federal Regulations, or to subsequently alter the record created by that device.

**SEC. 6504. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.**

Section 4144(d) of SAFETEA-LU (49 U.S.C. 31100 note; 119 Stat. 1748) is amended by striking "shall terminate" and all that follows through the period at the end and inserting "shall terminate on September 30, 2017."

**SEC. 6505. TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.**

Section 229(a)(1) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31136 note) is amended to read as follows:

"(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations issued by the Secretary under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for a driver used by a motor carrier, shall not apply during a planting or harvest period of a State, as that period is determined by the State, to—

"(A) drivers transporting agricultural commodities in the State from the source of the agricultural commodities to a location within a 150 air-mile radius from the source;

"(B) drivers transporting farm supplies for agricultural purposes in the State from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or

"(C) drivers transporting farm supplies for agricultural purposes in the State from a wholesale distribution point of the farm supplies to a retail



distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point.”

**SEC. 6506. EXEMPTION RELATING TO TRANSPORTATION OF GRAPES DURING HARVEST PERIODS.**

Regulations issued by the Secretary of Transportation under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for a driver used by a motor carrier, shall not apply, beginning on the date of enactment of this Act, to a driver transporting grapes in a State if the transportation—

- (1) is during a harvest period (as that period is determined by the State); and
- (2) is limited to an area within a 175 air-mile radius from the location where the grapes are picked or distributed.

## Subtitle F—Miscellaneous

**SEC. 6601. EXEMPTIONS FROM REQUIREMENTS FOR CERTAIN FARM VEHICLES.**

(a) **FEDERAL REQUIREMENTS.**—A covered farm vehicle, including the individual operating that vehicle, shall be exempt from the following:

- (1) Any requirement relating to commercial driver's licenses established under chapter 313 of title 49, United States Code.
- (2) Any requirement relating to drug testing established under chapter 313 of title 49, United States Code.
- (3) Any requirement relating to medical certificates established under—
  - (A) subchapter III of chapter 311 of title 49, United States Code; or
  - (B) chapter 313 of title 49, United States Code.
- (4) Any requirement relating to hours of service established under—
  - (A) subchapter III of chapter 311 of title 49, United States Code; or
  - (B) chapter 315 of title 49, United States Code.

(b) **STATE REQUIREMENTS.**—

(1) **IN GENERAL.**—Federal transportation funding to a State may not be terminated, limited, or otherwise interfered with as a result of the State exempting a covered farm vehicle, including the individual operating that vehicle, from any State requirement relating to the operation of that vehicle.

(2) **EXCEPTION.**—Paragraph (1) does not apply with respect to a covered farm vehicle transporting hazardous materials that require a placard.

(c) **COVERED FARM VEHICLE DEFINED.**—

(1) **IN GENERAL.**—In this section, the term “covered farm vehicle” means a motor vehicle—

(A) that—

- (i) is traveling in the State in which the vehicle is registered or another State;
  - (ii) is operated by—
    - (I) a farm owner or operator;
    - (II) a ranch owner or operator; or
    - (III) an employee or family member of an individual specified in subclause (I) or (II);
  - (iii) is transporting to or from a farm or ranch—
    - (I) agricultural commodities;
    - (II) livestock; or
    - (III) machinery or supplies;
  - (iv) except as provided in paragraph (2), is not used in the operations of a for-hire motor carrier; and
  - (v) is equipped with a special license plate or other designation by the State in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and
- (B) that has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that is—

- (i) 26,001 pounds or less; or
- (ii) greater than 26,001 pounds and traveling within 150 air miles of the farm or ranch with respect to which the vehicle is being operated.

(2) **INCLUSION.**—In this section, the term “covered farm vehicle” includes a motor vehicle that meets the requirements of paragraph (1) (other than paragraph (1)(A)(iv)) and is—

- (A) operated pursuant to a crop share farm lease agreement;
- (B) owned by a tenant with respect to that agreement; and

(C) transporting the landlord's portion of the crops under that agreement.

**SEC. 6602. TECHNICAL CORRECTION.**

Section 306(c)(2)(B) of the SAFETEA-LU Technical Corrections Act of 2008 (29 U.S.C. 207 note; 122 Stat. 1621) is amended—

- (1) in clause (ii) by striking “or” at the end;
- (2) in clause (iii) by striking “and” at the end and inserting “or”; and
- (3) by adding at the end the following:
 

“(iv) operating under contracts with rail carriers subject to part A of subtitle IV of title 49, United States Code, and used to transport employees of such rail carriers; and”.

**SEC. 6603. STUDY OF IMPACT OF REGULATIONS ON SMALL TRUCKING COMPANIES.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study to assess trends in motor carrier safety relating to small trucking companies and independent operators, including the extent to which Federal motor carrier safety regulation adversely impacts and economically and competitively disadvantages small trucking companies and independent operators and the extent to which there is a correlation between company size and crash rates and crash causation.

(b) **CONTENTS.**—The study shall contain the following:

- (1) Overall trends in highway crashes involving large trucks for the past 2 decades, including a separate analysis of the annual number of incidents involving a large truck only, a truck and automobile, and more than one large truck.
- (2) Crash causation factors typical in each type of incident described in paragraph (1), including the frequency of large truck crashes caused by or in which an automobile driver was predominately at fault, and the ratio of truck driver fatigue versus automobile driver fatigue.

(3) The correlation of—

(A) truck driver turnover and truck driver retention and longevity rates with a given trucking company to company crash rates, crash causation, the severity of injuries, number of fatalities, and fault; and

(B) truck driver experience and safety records proportional to company size.

(4) The role of truck driver experience level, longevity with a given trucking company, retention rate, high driver turnover rates, and truck driver inexperience in highway crashes involving trucks, and the degree to which each is a factor in a crash.

(5) The degree and frequency of such contributing factors as weather conditions, traffic congestion, daytime or nighttime conditions, variety of road and vehicle types, and types of pick-up and delivery locations (such as urban, rural, and small metropolitan areas) in crashes involving a truck.

(6) Impacts and incentives perceived by truck drivers caused by current Federal motor carrier safety regulations and the inflexibility in the application and enforcement of regulations.

(7) An assessment of the data quality of the Compliance, Safety, and Accountability initiative of the Federal Motor Carrier Safety Administration, including compliance with the Data Quality Act (Public Law 106-554; section 515 of H.R. 5658, as introduced on December 14, 2000), the number of carriers for which there is insufficient data, discrepancies in measurements and methodologies, complaints about data quality, and whether company size impacts data quality.

(c) **REPORT.**—Not later than 9 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study, including recommendations for achieving a better balance of safety with competition and efficiency and recommendations to reduce adverse regulatory impacts on small trucking companies and independent operators.

(d) **PROHIBITION.**—No proposed regulations from the Federal Motor Carrier Safety Administration that relate to the contents of the study may become final or take effect before the expiration of the 180-day period beginning on the date the Comptroller General submits to the Committees the report described in subsection (c).

**SEC. 6604. REPORT ON SMALL TRUCKING COMPANIES.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the efforts of the

Department of Transportation to better balance truck competition and efficiency with safety.

(b) **CONTENTS.**—The report shall contain the following:

(1) A description of specific steps that modal administrations within the Department have taken and plan to take to reduce economic and competitive disadvantages imposed by specific regulations on small trucking companies, their truck drivers, and independent operators.

(2) A description of specific performance goals, plans for, and performance to date on regulatory flexibility measures, pursuant to the Regulatory Flexibility Act (Public Law 96-354), the Data Quality Act (Public Law 106-554; section 515 of H.R. 5658, as introduced on December 14, 2000), and the Paperwork Reduction Act of 1980 (Public Law 96-511), that are affirmatively and precisely designed to achieve greater flexibility with respect to regulatory compliance, in particular detailing concrete steps to reasonably accommodate the needs unique to small trucking companies, independent operators, and special load haulers (such as of livestock, frozen foodstuffs, and automobiles), relating to hours of service rules, log- and recordkeeping, and the accounting of driver time lost due to loading and unloading, traffic, or weather delays.

(3) A table showing the relation of truck driver experience and tenure with a trucking company or as an independent operator to incidence of being at fault in an accident.

#### **SEC. 6605. RULEMAKING ON ROAD VISIBILITY OF AGRICULTURAL EQUIPMENT.**

(a) **RULEMAKING.**—Not later than 2 years after the date of enactment of this Act, the Secretary, after consultation with the American Society of Agricultural and Biological Engineers, other appropriate Federal agencies, and other appropriate persons, shall issue a rule to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road. Such rule shall establish minimum lighting and marking standards for applicable agricultural equipment manufactured 1 year or more subsequent to the effective date of the rule. Such rule shall provide for methods, materials, specifications, or equipment employed, equivalent to the standard set in ANSI/SAE S279.14 published in July 2008 by the American Society of Agriculture and Biological Engineers and entitled "Lighting and Marking of Agricultural Equipment on Highways", or any successor standard.

(b) **REVIEW.**—The Secretary shall periodically, and not less than once every 5 years, review the standards established under this section and shall revise the standards to reflect the provisions of the edition of ANSI/SAE S279 that is in effect at the time of the review.

(c) **RULES OF CONSTRUCTION.**—

(1) **COMPLIANCE WITH SUCCESSOR STANDARDS.**—No provision of any rule issued pursuant to this section shall prohibit the operation on public roads of agricultural equipment that is equipped according to any adopted edition of ANSI/SAE S279 that is later than the edition of such standard that is referenced during the issuance of the rule.

(2) **NO RETROFITTING REQUIRED.**—No provision of any rule issued pursuant to this section shall require the retrofitting of agricultural equipment that is manufactured prior to 1 year after the date on which a final rule is issued pursuant to subsection (a).

(3) **NO EFFECT ON ADDITIONAL MATERIALS AND EQUIPMENT.**—No provision of any rule issued pursuant to this section shall prohibit the operation on public roads of agricultural equipment that is equipped with materials or equipment that are in addition to the minimum materials and equipment specified by the standards established under the rule.

(d) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **AGRICULTURAL EQUIPMENT.**—The term "agricultural equipment" means "agricultural field equipment" as defined under the standard ANSI/ASABE S390.4 published by the American Society of Agriculture and Biological Engineers, or any successor standard.

(2) **PUBLIC ROAD.**—The term "public road" has the meaning given that term in section 101 of title 23, United States Code.

#### **SEC. 6606. TRANSPORTATION OF HORSES.**

Section 80502 of title 49, United States Code, is amended—

(1) in subsection (c) by striking "This section does not" and inserting "Subsections (a) and (b) do not";

(2) by redesignating subsection (d) as subsection (e);

(3) by inserting after subsection (c) the following:

“(d) TRANSPORTATION OF HORSES.—

“(1) PROHIBITION.—No person may transport, or cause to be transported, a horse from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession of the United States in a motor vehicle containing 2 or more levels stacked on top of each other.

“(2) MOTOR VEHICLE DEFINED.—In this subsection, the term ‘motor vehicle’ has the meaning given that term in section 13102.”; and

(4) in subsection (e) (as redesignated by paragraph (2) of this subsection)—

(A) by striking “A rail carrier” and inserting the following:

“(1) IN GENERAL.—A rail carrier”;

(B) by striking “this section” and inserting “subsection (a) or (b)”;

(C) by striking “On learning of a violation” and inserting the following:

“(2) TRANSPORTATION OF HORSES IN MULTILEVEL TRAILER.—

“(A) CIVIL PENALTY.—A person that knowingly violates subsection (d) is liable to the United States Government for a civil penalty of at least \$100 but not more than \$500 for each violation. A separate violation occurs under subsection (d) for each horse that is transported, or caused to be transported, in violation of subsection (d).

“(B) RELATIONSHIP TO OTHER LAWS.—The penalty provided under subparagraph (A) shall be in addition to any penalty or remedy available under any other law or common law.

“(3) CIVIL ACTION.—On learning of a violation of a provision of this section”.

SEC. 6607. REGULATORY REVIEW AND REVISION.

Not later than 12 months after the date of enactment of this Act, the Secretary shall review and revise the Federal motor carrier safety regulations contained in chapter III of subtitle B of title 49, Code of Federal Regulations, to—

(1) simplify the regulations; and

(2) eliminate those requirements that are outmoded or excessively burdensome.

SEC. 6608. ISSUANCE OF SAFETY REGULATIONS.

The Secretary shall take such actions as may be necessary in fiscal year 2012 to expedite the issuance of safety regulations to carry out this title (and the amendments made by this title) following the effective date of this title.

SEC. 6609. REPEALS.

(a) REPEAL OF HIGH-PRIORITY PROGRAM.—Section 31104(k) is repealed.

(b) BORDER ENFORCEMENT GRANTS.—Section 31107, and the item relating to that section in the analysis for chapter 311, are repealed.

(c) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM MODERNIZATION.—Subsections (c), (d), and (e) of section 4123 of SAFETEA-LU (119 Stat. 1735–1736) are repealed.

(d) OUTREACH AND EDUCATION.—Section 4127 of SAFETEA-LU (119 Stat. 1741), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(e) SAFETY DATA IMPROVEMENT PROGRAM.—Section 4128 of SAFETEA-LU (119 Stat. 1742), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(f) GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 4134 of SAFETEA-LU (119 Stat. 1744), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(g) REPORT ON MOTOR CARRIER EMPLOYEE PROTECTIONS.—Section 4023 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31105 note; 112 Stat. 415), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

## TITLE VII—RESEARCH AND EDUCATION

SEC. 7001. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Alternative Transportation Account of the Highway Trust Fund:

(1) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—To carry out section 503 of title 23, United States Code, \$141,750,000 for each of fiscal years 2013 through 2016.

(2) **TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.**—To carry out section 503a of title 23, United States Code, \$60,750,000 for each of fiscal years 2013 through 2016.

(3) **TRAINING AND EDUCATION.**—To carry out section 504 of title 23, United States Code, \$25,500,000 for each of fiscal years 2013 through 2016.

(4) **INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH.**—To carry out sections 512, 514, 515, 516, and 517 of title 23, United States Code, \$110,000,000 for each of fiscal years 2013 through 2016.

(5) **UNIVERSITY TRANSPORTATION RESEARCH.**—To carry out section 5506 of title 49, United States Code, \$75,000,000 for each of fiscal years 2013 through 2016.

(6) **BUREAU OF TRANSPORTATION STATISTICS.**—To carry out section 111 of title 49, United States Code, \$27,000,000 for each of fiscal years 2013 through 2016.

(b) **APPLICABILITY OF CHAPTER 1 OF TITLE 23.**—Funds authorized to be appropriated by subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using such funds shall be 80 percent, unless otherwise expressly provided by this Act (including the amendments made by this Act) or otherwise determined by the Secretary, and such funds shall remain available until expended and shall not be transferable.

#### SEC. 7002. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Alternative Transportation Account of the Highway Trust Fund by section 7001(a) shall be \$440,000,000 for each of fiscal years 2013 through 2016.

#### SEC. 7003. DEFINITIONS.

Section 501 of title 23, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (7);

(2) by redesignating paragraph (1) as paragraph (2);

(3) by inserting before paragraph (2) (as so redesignated) the following:

“(1) **CONNECTED VEHICLE TECHNOLOGY.**—The term ‘connected vehicle technology’ means the utilization of wireless technology to enable multiple vehicles to communicate information to each other.”; and

(4) by inserting after paragraph (2) (as so redesignated) the following:

“(3) **INCIDENT.**—The term ‘incident’ means a crash, natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

“(4) **INTELLIGENT TRANSPORTATION INFRASTRUCTURE.**—The term ‘intelligent transportation infrastructure’ means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

“(5) **INTELLIGENT TRANSPORTATION SYSTEM.**—The term ‘intelligent transportation system’ means electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

“(6) **NATIONAL ARCHITECTURE.**—The term ‘national architecture’ means the common framework for interoperability that defines—

“(A) the functions associated with intelligent transportation system user services;

“(B) the physical entities or subsystems within which the functions reside;

“(C) the data interfaces and information flows between physical subsystems; and

“(D) the communications requirements associated with the information flows.”.

#### SEC. 7004. SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.

(a) **IN GENERAL.**—Section 502 of title 23, United States Code, is amended—

(1) in the section heading by striking “research” and inserting “research, development, and technology”;

(2) in subsection (a)—

(A) in paragraph (2)—

(i) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(ii) by inserting after subparagraph (A) the following:

“(B) addresses current or emerging needs.”;

(iii) in subparagraph (C) (as redesignated by clause (i) of this subparagraph) by striking "supports research in which there is" and inserting "delivers";

(iv) in subparagraph (D) (as redesignated by clause (i) of this subparagraph) by striking "or" after the semicolon;

(v) in subparagraph (E) (as redesignated by clause (i) of this subparagraph) by striking the period at the end and inserting a semicolon; and

(vi) by adding at the end the following:

"(F) presents the best means to align resources with multiyear plans and priorities; or

"(G) ensures the coordination of highway research and technology transfer activities, including those performed by the university transportation centers established under subchapter I of chapter 55 of title 49.";

(B) in paragraph (3)—

(i) in subparagraph (B)—

(I) by striking "support and" and inserting "partner with State transportation departments and other stakeholders as appropriate to"; and

(II) by striking "by State highway agencies";

(ii) in subparagraph (C)—

(I) by striking "share" and inserting "communicate";

(II) by inserting "on-going and" before "completed"; and

(III) by striking "and" after the semicolon;

(iii) in subparagraph (D)—

(I) by striking "support and facilitate technology" and inserting "lead efforts to coordinate areas of national emphasis for highway research, technology,"; and

(II) by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

"(E) leverage partnerships with industry, academia, and other entities; and

"(F) conduct, facilitate, and support training and education of current and future transportation professionals.";

(C) in paragraph (4)(C) by striking "policy and planning" and inserting "all highway objectives seeking to improve the performance of the transportation system";

(D) in paragraph (5) by inserting "tribal governments," after "local governments,";

(E) by striking paragraph (7) and inserting the following:

"(7) PERFORMANCE REVIEW AND EVALUATION.—

"(A) IN GENERAL.—To the maximum extent practicable, all surface transportation research and development projects shall include a component of performance measurement and evaluation.

"(B) PERFORMANCE MEASURES.—Performance measures shall be established during the proposal stage of a research and development project and shall, to the maximum extent practicable, be outcome-based.

"(C) PROGRAM PLAN.—To the maximum extent practicable, each program pursued under this chapter shall be part of a data-driven, outcome-oriented program plan.

"(D) AVAILABILITY OF EVALUATIONS.—All evaluations under this paragraph shall be made readily available to the public."; and

(F) in paragraph (8) by striking "surface";

(3) in subsection (b)—

(A) by striking paragraph (4) and inserting the following:

"(4) TECHNOLOGICAL INNOVATION.—The Secretary shall ensure that the programs and activities carried out under this chapter are consistent with the transportation research and development strategic plan developed under section 508.";

(B) in paragraph (5) by striking "section" each place it appears and inserting "chapter";

(C) in paragraph (6) by adding at the end the following:

"(C) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—The Secretary, at the request of a State, may transfer funds apportioned or allocated under this chapter to the State to another State, or to the Federal Highway Administration, for the purpose of funding re-

search, development, and technology transfer activities of mutual interest on a pooled funds basis.

“(D) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for projects that are transferred under this subsection.”; and

(D) by adding at the end the following:

“(7) PRIZE COMPETITIONS.—

“(A) IN GENERAL.—Consistent with section 24 of the Stevenson-Wydler Technology Innovation Act of 1980, the Secretary may carry out a program to award prizes competitively to stimulate innovation in the area of surface transportation that has the potential to advance the Federal Highway Administration’s research and technology objectives and activities under section 503.

“(B) ANNUAL REPORT.—

“(i) IN GENERAL.—Not later than March 1 of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate a report on the activities carried out during the preceding fiscal year under the authority in subparagraph (A) if such authority under subparagraph (A) was utilized by the Secretary.

“(ii) INFORMATION INCLUDED.—A report under this subparagraph shall include, for each prize competition under subparagraph (A), the following:

“(I) A description of the proposed goals of each prize competition.

“(II) An analysis of why the utilization of the authority in subparagraph (A) was the preferable method of achieving the goals described in subclause (I) as opposed to other authorities available to the agency, such as contracts, grants, and cooperative agreements.

“(III) The total amount of cash prizes awarded for each prize competition, including a description of the amount of private funds contributed to the program, the sources of such funds, and the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the agency for recording as obligations and expenditures.

“(IV) The methods used for the solicitation and evaluation of submissions under each prize competition, together with an assessment of the effectiveness of such methods and lessons learned for future prize competitions.

“(V) A description of the resources, including personnel and funding, used in the execution of each prize competition together with a detailed description of the activities for which such resources were used and an accounting of how funding for execution was allocated among the accounts of the agency for recording as obligations and expenditures.

“(VI) A description of how each prize competition advanced the mission of the Department of Transportation.”;

(4) in subsection (c)—

(A) in paragraph (3)(A)—

(i) by striking “The” and inserting “Except as otherwise provided in this chapter, the”;

(ii) by striking “subsection” and inserting “chapter”; and

(iii) by striking “50” and inserting “80”;

(B) in paragraph (4) by striking “subsection” and inserting “chapter”; and

(5) by striking subsections (d) through (j).

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 502 and inserting the following:

“502. Surface transportation research, development, and technology.”.

SEC. 7005. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Section 503 of title 23, United States Code, is amended to read as follows:

**"§ 503. Research and development**

"(a) IN GENERAL.—The Secretary shall establish a research and development program in accordance with this section and the strategic plan developed under section 508.

"(b) RESPONSIBILITIES.—To address current and emerging highway transportation needs, the Secretary, in carrying out the program under this section, shall—

- "(1) identify research topics;
- "(2) conduct research, testing, and evaluation activities;
- "(3) facilitate technology transfer;
- "(4) provide technical assistance; and
- "(5) ensure program activities are coordinated with the transportation research and development strategic plan developed under section 508.

**"(c) IMPROVING HIGHWAY SAFETY.—**

"(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall create systematic measures to improve highway safety for all road users, vehicles, and public roads to—

- "(A) achieve greater long-term safety gains;
- "(B) reduce the number of fatalities and serious injuries;
- "(C) fill knowledge gaps that currently limit the effectiveness of research;
- "(D) support the development and implementation of State strategic highway safety plans under section 148;
- "(E) advance improvements in and use of performance prediction analysis for decisionmaking;
- "(F) expand technology transfer to partners and stakeholders;
- "(G) achieve safety benefits through connected vehicle technology; and
- "(H) enhance rural highway safety.

"(2) ACTIVITIES.—Research and development activities carried out under this subsection may include activities relating to—

- "(A) safety assessments and decisionmaking tools;
- "(B) data collection and analysis;
- "(C) crash reduction projections;
- "(D) low-cost safety countermeasures;
- "(E) innovative operational improvements and designs of roadway and roadside features;
- "(F) evaluation of countermeasure costs and benefits;
- "(G) development of tools for projecting impacts of safety countermeasures;
- "(H) rural road safety;
- "(I) safety policy studies;
- "(J) human factors studies and methods;
- "(K) safety technology deployment;
- "(L) safety program and process improvements; and
- "(M) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

**"(d) IMPROVING HIGHWAY INFRASTRUCTURE INTEGRITY.—**

"(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall improve the ability to maintain highway infrastructure integrity, meet user needs, and improve system performance through targeted Federal transportation investments to—

- "(A) reduce the number of fatalities attributable to highway infrastructure design characteristics and work zones;
- "(B) improve the safety of highway infrastructure;
- "(C) increase the reliability of life-cycle performance predictions used in highway infrastructure design, construction, and management;
- "(D) improve the ability of transportation agencies to deliver projects that meet expectations for timeliness, quality, and cost;
- "(E) reduce user delay attributable to highway infrastructure system performance, maintenance, rehabilitation, and construction;
- "(F) improve highway condition and performance through increased use of innovative pavements during highway design, construction, and maintenance;
- "(G) improve highway condition and performance through increased use of innovative designs, materials, and construction methods in the construction, repair, and rehabilitation of bridges;



"(H) reduce the life-cycle environmental impacts of highway infrastructure, including design, construction, operation, preservation, and maintenance; and

"(I) improve the resiliency of roadways to commercial heavy freight traffic.

"(2) ACTIVITIES.—Research and technology activities carried out under this subsection may include activities relating to—

"(A) long-term infrastructure performance programs addressing pavements, bridges, tunnels, and other structures;

"(B) short-term and accelerated studies of highway infrastructure performance;

"(C) the development of more durable highway and bridge infrastructure materials and systems, including the use of carbon fiber composite materials in bridge replacement and rehabilitation;

"(D) advanced highway and bridge infrastructure design methods;

"(E) accelerated highway construction;

"(F) performance-based specifications;

"(G) construction and materials quality assurance;

"(H) comprehensive and integrated highway infrastructure asset management;

"(I) technology transfer and adoption of permeable, pervious, or porous paving materials, practices, and systems that are designed to minimize environmental impacts, stormwater runoff, and flooding and to treat or remove pollutants by allowing stormwater to infiltrate through the pavement in a manner similar to predevelopment hydrologic conditions;

"(J) sustainable highway infrastructure design and construction;

"(K) highway and bridge infrastructure rehabilitation and preservation techniques, including those techniques to address historic infrastructure;

"(L) hydraulic, geotechnical, and aerodynamic aspects of highway infrastructure;

"(M) improved highway construction technologies and practices;

"(N) improved tools, technologies, and models for highway and bridge infrastructure management, including assessment and monitoring of infrastructure condition;

"(O) improving flexibility and resiliency of highway and bridge infrastructure systems to withstand climate variability; and

"(P) highway infrastructure resilience and other adaptation measures.

"(e) REDUCING CONGESTION, IMPROVING HIGHWAY OPERATIONS, AND ENHANCING FREIGHT PRODUCTIVITY.—

"(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall examine approaches to reduce traffic congestion (including freight-related congestion throughout the transportation network), reduce the costs of such congestion, and improve freight movement.

"(2) ACTIVITIES.—Research and technology activities carried out under this subsection may include examination of—

"(A) active traffic and demand management;

"(B) accelerating deployment of intelligent transportation systems;

"(C) arterial management and traffic signal operation;

"(D) congestion pricing;

"(E) corridor management;

"(F) emergency operations;

"(G) freeway management;

"(H) impacts of vehicle size and weight;

"(I) freight operations and technology;

"(J) operations and freight performance measurement and management;

"(K) organizing and planning for operations;

"(L) planned special events management;

"(M) real-time transportation information, including real-time ride-sharing;

"(N) road weather management;

"(O) traffic and freight data and analysis tools;

"(P) traffic control devices;

"(Q) traffic incident management;

"(R) workzone management;

"(S) mechanisms that communicate travel, roadway, and emergency information to all road users (as defined in section 148); and

- “(T) enhanced mode choice and intermodal connectivity.
- “(f) ASSESSING POLICY AND SYSTEM FINANCING ALTERNATIVES.—
- “(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall conduct policy analysis on emerging issues in the transportation community to provide information to policymakers and decisionmakers.
- “(2) ACTIVITIES.—Research and technology activities carried out under this subsection may include activities relating to—
- “(A) highway needs and investment analysis;
  - “(B) analysis of legislative development and implementation;
  - “(C) highway policy analysis;
  - “(D) the effect of highway congestion on the economy;
  - “(E) research in emerging policy areas;
  - “(F) advancing innovations in revenue generation, financing, and procurement for project delivery;
  - “(G) improving project financial and cost analysis;
  - “(H) highway performance measurement;
  - “(I) travel demand performance measurement; and
  - “(J) highway finance performance measurement.
- “(3) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—
- “(A) IN GENERAL.—Not later than July 31, 2012, and July 31 of every second year thereafter, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes estimates of the future highway and bridge needs of the United States and the backlog of highway and bridge needs at the time of the report.
- “(B) COMPARISON.—Each report under subparagraph (A) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.
- “(g) EXPLORATORY ADVANCED RESEARCH.—In carrying out the program under this section, the Secretary shall conduct long-term, higher-risk research, consistent with the transportation research and development plan under section 508, with the potential for dramatic breakthroughs in the field of highway transportation.
- “(h) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—
- “(1) IN GENERAL.—In carrying out the program under this section, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, institutions of higher education, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer activities.
- “(2) APPLICATIONS.—To receive a grant under this subsection, an entity described in paragraph (1) shall submit an application to the Secretary. The application shall be in such form and contain such information and assurances as the Secretary may require.
- “(3) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under this subsection is made available to State and local transportation departments and other interested parties as specified by the Secretary.
- “(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—
- “(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.
- “(2) USES OF THE CENTER.—The Center shall support—
- “(A) the conduct of highway research and development related to new highway technology, including connected vehicle technology;
  - “(B) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials;
  - “(C) the development of innovative highway products and practices; and
  - “(D) long-term high-risk research to improve the materials used in highway infrastructure.
- “(j) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—
- “(1) ESTABLISHMENT.—The Secretary may establish not more than 4 centers for surface transportation excellence.
- “(2) GOALS.—The goals of the centers for surface transportation excellence are to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation.

"(3) **ROLE OF THE CENTERS.**—To achieve the goals set forth in paragraph (2), the Secretary shall establish centers that provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes that can assist States in effectively implementing surface transportation programs, projects, and policies.

"(4) **PROGRAM ADMINISTRATION.**—

"(A) **COMPETITION.**—A party entering into a contract, cooperative agreement, or other transaction with the Secretary under this subsection, or receiving a grant to perform research or provide technical assistance under this subsection, shall be selected on a competitive basis.

"(B) **STRATEGIC PLAN.**—The Secretary shall require each center to develop a multiyear strategic plan, and submit the plan to the Secretary at such time as the Secretary requires, that describes—

"(i) the activities to be undertaken by the center; and

"(ii) how the work of the center will be coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized by this chapter.

"(5) **FUNDING.**—Of the amounts made available by section 7001(a)(1) of the American Energy and Infrastructure Jobs Act of 2012, not more than \$3,000,000 for each of fiscal years 2013 through 2016 shall be available to carry out this subsection."

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 5 of such title is amended by striking the item relating to section 503 and inserting the following:

"503. Research and development."

#### **SEC. 7006. TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.**

(a) **IN GENERAL.**—Chapter 5 of title 23, United States Code, is amended by inserting after section 503 the following:

##### **"§ 503a. Technology and innovation deployment program**

"(a) **IN GENERAL.**—The Secretary, in accordance with the strategic plan developed under section 508, shall carry out a technology and innovation deployment program on all aspects of highway transportation by promoting and facilitating the products, technologies, tools, methods, or other findings resulting from highway research conducted under this chapter.

"(b) **OBJECTIVES.**—The Secretary shall seek to advance the following objectives:

"(1) Significantly accelerate the adoption of innovative technologies by the surface transportation community.

"(2) Significantly accelerate the adoption of advanced modeling technologies, as described in section 106, by the surface transportation community.

"(3) Provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction.

"(4) Advance longer-lasting highways using innovative technologies and practices to accomplish more rapid construction of efficient and safe highways and bridges.

"(5) Improve highway efficiency, safety, mobility, reliability, service life, and environmental protection.

"(6) Develop and deploy new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation.

"(7) Enhance deployment and operations of intelligent transportation systems.

"(c) **ACTIVITIES.**—The program may include—

"(1) activities conducted under section 503;

"(2) other technologies and innovations requiring additional development and testing not performed under section 503 but necessary to bring about successful deployment and delivery; and

"(3) developing and improving innovative technologies and practices and exploring new technologies to accelerate innovation adoption.

"(d) **GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.**—

"(1) **IN GENERAL.**—Under the program, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, institutions of higher education, private sector entities, Federal lab-

oratories, and nonprofit organizations to pay the Federal share of the cost of research, development, and deployment activities.

"(2) APPLICATIONS.—To receive a grant under this subsection, an entity described in paragraph (1) shall submit an application to the Secretary. The application shall be in such form and contain such information and assurances as the Secretary may require.

"(3) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under this subsection is made available to State and local transportation departments and other interested parties as specified by the Secretary.

**"(e) DEPLOYMENT OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM RESULTS AND PRODUCTS.—**

"(1) IN GENERAL.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials and the National Academy of Sciences, shall promote research results and products developed under the Strategic Highway Research Program 2 administered by the Transportation Research Board of the National Academy of Sciences.

"(2) STRATEGY OF PROMOTION.—The Secretary, to the extent practicable, shall base the deployment of research results and products described in paragraph (1) on the recommendations included in the Transportation Research Board Special Report 296 entitled 'Implementing the Results of the Second Strategic Highway Research Program: Saving Lives, Reducing Congestion, Improving Quality of Life'."

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by inserting after the item relating to section 503 the following:

"503a. Technology and innovation deployment program."

**SEC. 7007. TRAINING AND EDUCATION.**

Section 504 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking subparagraph (A) and inserting the following:

"(A) Federal Highway Administration employees, State and local transportation agency employees, and Federal agency partners;"

(2) in subsection (b) by striking paragraph (3) and inserting the following:

"(3) FEDERAL SHARE.—

"(A) LOCAL TECHNICAL ASSISTANCE CENTERS.—Subject to clause (ii), the Federal share of the cost of any activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent, except that the remaining share may include funds provided to a recipient under subsection (e) or section 505.

"(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (2)(D)(ii) shall be 100 percent."

(3) in subsection (c)(2) by adding at the end the following: "Funds provided to institutions of higher education to carry out this paragraph shall be used in direct support of student expenses associated with their transportation studies."

(4) by striking subsection (d);

(5) by redesignating subsections (e) through (g) as subsections (d) through (f), respectively;

(6) in subsection (d) (as so redesignated)—

(A) in paragraph (1)—

(i) by striking "sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e)" and inserting "paragraphs (1), (2), and (3) of section 104(b)";

(ii) in subparagraph (D) by striking "and";

(iii) in subparagraph (E) by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

"(F) activities delivered by the National Highway Institute under subsection (a); and

"(G) the local technical assistance program under subsection (b)."; and

(B) in paragraph (2) by inserting before the period at the end the following: "except for activities carried out under paragraph (1)(G), for which the Federal share shall be 50 percent as described in subsection (b)(3)(A)"; and

(7) in the heading of subsection (e) (as redesignated by paragraph (5) of this section) by striking "PILOT".

**SEC. 7008. STATE PLANNING AND RESEARCH.**

Section 505(a) of title 23, United States Code, is amended in the first sentence by striking "104(h)) and under section 144" and inserting "104(i))".

**SEC. 7009. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.**

Section 506 of title 23, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

**SEC. 7010. SURFACE TRANSPORTATION-ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.**

Section 507 of title 23, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

**SEC. 7011. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.**

Section 508(a) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "SAFETEA-LU" and inserting "American Energy and Infrastructure Jobs Act of 2012"; and

(B) by adding ", acting through the Administrator of the Research and Innovative Technology Administration," after "Secretary"; and

(2) in paragraph (2)(A)(iii) by striking "promoting security" and inserting "improving goods movement".

**SEC. 7012. NATIONAL COOPERATIVE FREIGHT TRANSPORTATION RESEARCH PROGRAM.**

Section 509 of title 23, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

**SEC. 7013. FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.**

Section 510 of title 23, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

**SEC. 7014. NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM PLAN.**

(a) **IN GENERAL.**—Section 512 of title 23, United States Code, is amended—

(1) in the section heading by striking "TIS" and inserting "**intelligent transportation systems**"; and

(2) in subsection (a)(1) by striking "SAFETEA-LU" and inserting "American Energy and Infrastructure Jobs Act of 2012".

(b) **CONFORMING AMENDMENT.**—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 512 and inserting the following:

"512. National intelligent transportation systems program plan."

**SEC. 7015. USE OF FUNDS FOR INTELLIGENT TRANSPORTATION SYSTEMS ACTIVITIES.**

(a) **IN GENERAL.**—Section 513 of title 23, United States Code, is amended—

(1) in the section heading by striking "TIS" and inserting "**intelligent transportation systems**"; and

(2) in subsection (a) by striking "subtitle C of title V of the SAFETEA-LU" and inserting "section 7001(a)(4) of the American Energy and Infrastructure Jobs Act of 2012".

(b) **CONFORMING AMENDMENT.**—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 513 and inserting the following:

"513. Use of funds for intelligent transportation systems activities."

**SEC. 7016. INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM GOALS AND PURPOSES.**

(a) **IN GENERAL.**—Chapter 5 of title 23, United States Code, is amended by adding at the end the following:

**"§ 514. Intelligent transportation systems program goals and purposes**

"(a) **GOALS.**—The goals of the intelligent transportation system program include—

"(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services, and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

"(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

"(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

"(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, and bicycles and pedestrians, including individuals with disabilities; and

"(5) improvement of the Nation's ability to respond to emergencies and natural disasters.

"(b) **PURPOSES.**—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

"(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

"(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

"(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

"(4) promote the innovative use of private resources;

"(5) facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

"(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

"(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

"(8) provide continuing support for operations and maintenance of intelligent transportation systems."

(b) **REPEAL.**—Section 5303 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is repealed.

(c) **CONFORMING AMENDMENT.**—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 513 the following:

"514. Intelligent transportation systems program goals and purposes."

**SEC. 7017. INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM GENERAL AUTHORITIES AND REQUIREMENTS.**

(a) **IN GENERAL.**—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

**"§ 515. Intelligent transportation systems program general authority and requirements**

"(a) **SCOPE.**—Subject to the provisions of this chapter, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

"(b) **POLICY.**—Intelligent transportation system research projects and operational tests funded pursuant to this chapter shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

"(c) **COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.**—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, private sector firms in the United States, Federal laboratories, and institutions of higher education, including historically Black colleges and universities and other minority institutions of higher education.

"(d) **CONSULTATION WITH FEDERAL OFFICIALS.**—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal departments and agencies, as appropriate.

"(e) **TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.**—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

"(f) **TRANSPORTATION PLANNING.**—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

"(g) **INFORMATION CLEARINGHOUSE.**—

"(1) **IN GENERAL.**—The Secretary shall—

"(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this chapter; and

"(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(2) **AGREEMENT.**—

"(A) **IN GENERAL.**—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

"(B) **FEDERAL FINANCIAL ASSISTANCE.**—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

"(3) **AVAILABILITY OF INFORMATION.**—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

"(h) **INFRASTRUCTURE DEVELOPMENT.**—Funds made available to carry out this chapter for operational tests—

"(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

"(2) to the maximum extent practicable, shall not be used for the construction of physical highway and public transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project."

(b) **REPEAL.**—Sections 5304 and 5305 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users are repealed.

(c) **CONFORMING AMENDMENT.**—The analysis for chapter 5 of title 23, United States Code, is further amended by adding after the item relating to section 514 the following:

"515. Intelligent transportation systems program general authority and requirements."

**SEC. 7018. INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH AND DEVELOPMENT.**

(a) **IN GENERAL.**—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

**"§ 516. Intelligent transportation systems research and development**

"(a) **IN GENERAL.**—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems and other similar activities that are necessary to carry out this chapter.

"(b) **PRIORITY AREAS.**—Under the program, the Secretary shall give higher priority to funding projects that—

"(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

"(2) utilize interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

"(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems;

"(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

"(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

"(6) enhance safety through improved crash avoidance and protection, crash and other emergency personnel notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; and

"(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies."

(b) **REPEAL.**—Section 5306 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is repealed.

(c) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is further amended by adding after the item relating to section 515 the following:

"516. Intelligent transportation systems research and development."

**SEC. 7019. INTELLIGENT TRANSPORTATION SYSTEMS NATIONAL ARCHITECTURE AND STANDARDS.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

**"§ 517. Intelligent transportation systems national architecture and standards**

**"(a) IN GENERAL.—**

**"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—**Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

**"(2) INTEROPERABILITY AND EFFICIENCY.—**To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

**"(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—**In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

**"(b) PROVISIONAL STANDARDS.—**

**"(1) IN GENERAL.—**If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the extent practicable, the work product of appropriate standards development organizations.

**"(2) PERIOD OF EFFECTIVENESS.—**A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

**"(c) CONFORMITY WITH NATIONAL ARCHITECTURE.—**

**"(1) IN GENERAL.—**Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this chapter, to deploy intelligent transportation system technologies conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

**"(2) SECRETARY'S DISCRETION.—**The Secretary may authorize exceptions to paragraph (1) for—

**"(A)** projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508; or

**"(B)** the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of the SAFETEA-LU if the Secretary determines that the upgrade or expansion—

**"(i)** would not adversely affect the goals or purposes of this chapter;

**"(ii)** is carried out before the end of the useful life of such system;

and

**"(iii)** is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

**"(3) EXCEPTIONS.—**Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of the SAFETEA-LU.

**"(d) STANDARD DEFINED.—**The term 'standard' means a document that—

**"(1)** contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and



"(2) may support the national architecture and promote—

"(A) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(B) interoperability among intelligent transportation system technologies implemented throughout the States."

(b) REPEAL.—Section 5307 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is repealed.

(c) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is further amended by adding after the item relating to section 516 the following:

"517. Intelligent transportation systems national architecture and standards."

**SEC. 7020. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.**

Section 5505 of title 49, United States Code, and the item relating to such section in the analysis of chapter 55 of such title, are repealed.

**SEC. 7021. UNIVERSITY TRANSPORTATION RESEARCH.**

Section 5506 of title 49, United States Code, is amended—

(1) in subsection (b)(1) by inserting "that is consistent with section 503 of title 23" after "applied research";

(2) in subsection (c)—

(A) in the heading by striking "REGIONAL, TIER I, AND TIER II CENTERS" and inserting "REGIONAL AND STANDARD CENTERS";

(B) in paragraph (1)—

(i) in the heading by striking "REGIONAL AND TIER I CENTERS" and inserting "REGIONAL AND STANDARD CENTERS";

(ii) in the matter preceding subparagraph (A) by striking "2005 through 2009" and inserting "2013 through 2016"; and

(iii) in subparagraph (B) by striking "10 Tier I" and inserting "20 standard";

(C) by striking paragraph (2); and

(D) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(3) in subsection (d) by adding at the end the following:

"(3) OPPORTUNITY ANNOUNCEMENT.—

"(A) PUBLIC DISCLOSURE.—All funding opportunities under this section shall be publically announced and shall be posted on the Department of Transportation's Web site and on Grants.gov. Any announcement shall, at a minimum, include a detailed description of how applications will be evaluated and a list of any specific research areas, educational objectives, or technology transfer objectives expected to be addressed by an application.

"(B) INPUT.—In developing an opportunity announcement under this paragraph, the Secretary shall solicit the input of transportation stakeholders, including academic researchers, State highway and transportation departments, local and regional governments, private industry, the Administrator of the Research and Innovative Technology Administration, and Administrators of other relevant Department of Transportation agencies.

"(4) PROPOSAL REVIEW AND SELECTION.—

"(A) IN GENERAL.—The Secretary shall make award decisions under subsection (c)(1) through a peer-reviewed, merit-based process. The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities under this paragraph as the Secretary determines are appropriate.

"(B) PEER-REVIEW.—

"(i) IN GENERAL.—The Secretary, acting through the National Research Council of the National Academy of Sciences, shall establish a peer-review process in which all proposals shall be reviewed by an external committee of experts.

"(ii) SELECTION.—The external committee of experts shall be selected and convened by the Transportation Research Board of the National Research Council based on—

"(I) their specific knowledge of transportation research fields or their broad knowledge of transportation research fields;

"(II) their knowledge of associated educational activities;

"(III) their broad knowledge of the community of transportation practitioners; and

- “(IV) to the extent possible, diverse representation within the review group.
- “(iii) DUTIES.—The external committee of experts shall evaluate proposals based on the degree to which they advance the objectives in subsection (b), the selection criteria in paragraph (2) of this subsection, and any additional review criteria set forth in the opportunity announcements described in paragraph (3) of this subsection.
- “(iv) REPORT.—The external committee of experts shall issue a report, published and made available to the public by the Transportation Research Board, summarizing the evaluation process and explaining its findings.
- “(v) COST.—The Secretary shall pay for any necessary expenses associated with peer-review with a portion of the funds assigned to the Research and Innovative Technology Administration for administration of this section.
- “(C) SECRETARIAL REVIEW.—The Secretary, in consultation with the Administrator of the Research and Innovative Technology Administration and Administrators of any other relevant Department of Transportation agencies, shall make final award decisions. The Secretary’s decision shall consider—
- “(i) the findings of the committee under subparagraph (B);
  - “(ii) the portfolio of other programs funded under this section;
  - “(iii) the objectives set forth in subsection (b);
  - “(iv) the criteria set forth in paragraph (2);
  - “(v) the details included in the opportunity announcement required under paragraph (3); and
  - “(vi) other current proposals and previously funded proposals.
- “(D) TRANSPARENCY.—
- “(i) IN GENERAL.—The Secretary shall provide to each applicant of a proposal copies of reviews by the committee under subparagraph (B) and any other materials used in the evaluation process (with any reviewer identifying information redacted) of the applicant’s proposal.
  - “(ii) PUBLIC AVAILABILITY.—The Secretary shall make results of the review process available to all applicants and to the public on the Department’s website.
  - “(iii) REPORT.—The Secretary shall issue a public report that includes, at a minimum—
    - “(I) the results of the peer-review process, including the findings of the committee under subparagraph (B); and
    - “(II) the reasons for the Secretary’s final decision, including a description of—
      - “(aa) the context in which the proposal was reviewed; and
      - “(bb) how the findings of the committee under subparagraph (B) were used in reaching the final decision.”;
- (4) in subsection (e)—
- (A) in paragraph (1) by striking “March 31, 2006, and not later than March 31st of every 4th year thereafter” and inserting “180 days after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and every 4 years thereafter”;
  - (B) in paragraph (5)—
    - (i) in subparagraph (B) by striking “and”;
    - (ii) in subparagraph (C) by striking the period and adding “; and”;
    - and
    - (iii) by adding at the end the following:
  - “(D) \$3,500,000 for each of fiscal years 2013 through 2016.”; and
  - (C) by adding at the end the following:
- “(6) RESEARCH REQUIREMENT.—
- “(A) COMPREHENSIVE TRANSPORTATION SAFETY.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under subsection (c) for the purpose of furthering the objectives described in subsection (b) in the field of comprehensive transportation safety.
  - “(B) INTELLIGENT TRANSPORTATION SYSTEMS.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under subsection (c) (other than the center described in subparagraph (A))

for the purpose of furthering the objectives described in subsection (b) in the field of intelligent transportation systems.

“(7) COMPETITIVE PROCESS.—The Secretary shall make award decisions through a competitive process that follows the requirements described in subsections (d)(3) and (d)(4) and incorporates the additional selection criteria set forth in paragraph (2) of this subsection.”;

(5) in subsection (f)—

(A) by striking “Tier I” in the subsection heading and inserting “STANDARD”;

(B) in paragraph (1)—

(i) by striking “June 30, 2006, and not later than June 30 of every 4th year thereafter” and inserting “180 days after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and every 4 years thereafter”; and

(ii) by striking “10 Tier I” and inserting “20 standard”;

(C) in paragraph (3) by striking “Tier I” and inserting “standard”; and

(D) in paragraph (5)—

(i) by striking “\$1,000,000” and inserting “\$2,000,000”;

(ii) by striking “2005 through 2009” and inserting “2013 through 2016”; and

(iii) by striking “Tier I” and inserting “standard”;

(6) by striking subsection (g) and redesignating subsections (h) through (m) as subsections (g) through (l), respectively;

(7) in subsection (h) (as redesignated by paragraph (5) of this section)—

(A) by striking “MAINTENANCE OF EFFORT.—” and all that follows through “In order to be” and inserting “MAINTENANCE OF EFFORT.—In order to be”;

and

(B) by striking paragraph (2);

(8) in subsection (i) (as redesignated by paragraph (5) of this section)—

(A) by striking “50” and inserting “65”; and

(B) by striking “503” and inserting “503A”; and

(9) by adding at the end the following:

“(m) ANNUAL REPORT.—The Secretary shall submit to the Committee on Science, Space, and Technology and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and make available to the public on the Department’s Web site, an annual report on the university transportation center program under this section detailing the activities of the regional and standard centers during the previous year and how such activities reflect the priorities of the strategic plan required under section 508(a) of title 23.”.

#### SEC. 7022. BUREAU OF TRANSPORTATION STATISTICS.

Section 111 of title 49, United States Code, is amended—

(1) in subsection (c) by striking paragraph (5) and inserting the following:

“(5) TRANSPORTATION STATISTICS.—Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

“(A) transportation safety across all modes and intermodally;

“(B) the state of good repair of United States transportation infrastructure;

“(C) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under subsection (g);

“(D) economic efficiency across the entire transportation sector;

“(E) the effects of the transportation system on global and domestic economic competitiveness;

“(F) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

“(G) transportation-related variables that influence the domestic economy and global competitiveness;

“(H) economic costs and impacts for passenger travel and freight movement;

“(I) intermodal and multimodal passenger movement; and

“(J) consequences of transportation for the environment.”;

(2) by striking subsection (d) and inserting the following:

"(d) ACCESS TO FEDERAL DATA.—In carrying out subsection (c), the Director shall be provided access to all transportation and transportation-related information and data, including safety-related data, held by an agency of the Department of Transportation and, upon written request and subject to any statutory or regulatory restrictions, to all such data held by any other Federal Government agency, that is germane to carrying out subsection (c).";

(3) in subsection (n) by striking "Mass Transit" and inserting "Alternative Transportation"; and

(4) in subsection (o)(2)—

(A) in subparagraph (A) by inserting "and" after the semicolon;

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

#### SEC. 7023. ADMINISTRATIVE AUTHORITY.

Section 112 of title 49, United States Code, is amended by adding at the end the following:

"(f) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2013 through 2016, the Administrator may expend not more than 1 ½ percent of the amounts authorized to be appropriated for the administration and operation of the Research and Innovative Technology Administration to carry out the coordination, evaluation, and oversight of the programs administered by the Administration.

"(g) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

"(A) non-Federal entities, including State and local governments, foreign governments, institutions of higher education, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

"(B) Federal laboratories; and

"(C) other Federal agencies.

"(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other agreements to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, institutions of higher education, associations, and the agents of those entities to carry out joint transportation research and technology efforts.

"(3) FEDERAL SHARE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out under paragraph (2) shall not exceed 50 percent.

"(B) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(C) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity described in subparagraph (A).

"(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a contract, grant, cooperative research and development agreement, or other agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.)."

#### SEC. 7024. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ADDITIONAL REPEALS.—Sections 5308, 5309, 5310, 5501, 5506, 5507, 5511, and 5513 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users are repealed.

(b) TABLE OF CONTENTS FOR SAFETEA-LU.—The table of contents for the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is amended by striking the items relating to sections 5303 through 5310, 5501, 5506, 5507, 5511, and 5513.

(c) CONFORMING AMENDMENT.—Section 6010(c) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (23 U.S.C. 512 note) is amended by striking “subtitle C of title V of this Act” and inserting “section 501 of title 23, United States Code”.

## TITLE VIII—RAILROADS

### Subtitle A—Repeals and Reforms of Intercity Passenger Rail Capital Grant Programs

#### SEC. 8001. CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS.

Chapter 223 of title 49, United States Code, and the item relating thereto in the table of chapters for subtitle V of such title, are repealed.

#### SEC. 8002. CONGESTION GRANTS.

Section 24105 of title 49, United States Code, and the item relating thereto in the table of sections for chapter 241 of such title, are repealed.

#### SEC. 8003. INTERCITY PASSENGER RAIL CAPITAL GRANTS TO STATES.

(a) AMENDMENTS.—Section 24402 of title 49, United States Code, is amended—

(1) in the section heading, by striking “Capital investment grants to support intercity passenger rail service” and inserting “Intercity passenger rail capital grants to States”;

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (l) as subsections (b) through (k), respectively;

(4) in subsection (b)(1)(D), as so redesignated by paragraph (3) of this subsection, by striking “that if an applicant has selected the proposed operator of its service competitively, that the applicant provide” and inserting “that the applicant shall select the proposed operator of its service competitively, and that the applicant shall provide”;

(5) in subsection (b)(2)(B), as so redesignated by paragraph (3) of this subsection—

(A) by inserting “and” at the end of clause (ii); and

(B) by inserting “and” at the end of clause (iii); and

(C) by striking clauses (iv) and (v);

(6) in subsection (c), as so redesignated by paragraph (3) of this subsection, by striking “subsection (c)(1)(A)” and inserting “subsection (b)(1)(A)”;

(7) in subsection (d), as so redesignated by paragraph (3) of this subsection, by striking “subsection (g)” and inserting “subsection (f)”;

(8) in subsection (e)(2), as so redesignated by paragraph (3) of this subsection, by striking “subsection (c)” and inserting “subsection (b)”;

(9) in subsection (f), as so redesignated by paragraph (3) of this subsection, by striking paragraphs (3) and (4); and

(10) in subsection (g), as so redesignated by paragraph (3) of this subsection, by amending the second sentence to read as follows: “If any amount provided as a grant under this section is not obligated within 3 years after the date on which the State is awarded the grant, such amount shall be rescinded and deposited to the general fund of the Treasury, where such amount shall be dedicated for the sole purpose of deficit reduction and prohibited from use as an offset for other spending increases or revenue reductions.”.

(b) CONFORMING AMENDMENT.—The item relating to section 24402 in the table of sections for chapter 244 of title 49, United States Code, is amended to read as follows:

“24402. Intercity passenger rail capital grants to States.”.

### Subtitle B—Amtrak Reforms

#### SEC. 8101. AUTHORIZATION FOR AMTRAK OPERATING EXPENSES.

Section 101(a) of the Passenger Rail Investment and Improvement Act of 2008 (Division B of Public Law 110–432, 122 Stat. 4908) is amended—

- (1) in paragraph (4), by striking "\$616,000,000" and inserting "\$466,000,000"; and  
 (2) in paragraph (5), by striking "\$631,000,000" and inserting "\$473,250,000".

**SEC. 8102. LIMITATIONS ON AMTRAK AUTHORITY.**

Section 24305 of title 49, United States Code, is amended by adding at the end the following new subsection:

**"(g) LIMITATIONS ON USE OF FEDERAL FUNDS.—**

**"(1) LIMITATIONS.—**Amtrak may not use any Federal funds for the following purposes:

**"(A)** Hiring or contracting with any outside legal professional for the purpose of filing, litigating, or otherwise pursuing any cause of action in a Federal or State court against a passenger rail service provider.

**"(B)** Filing, litigating, or otherwise pursuing in any Federal or State court any cause of action against a passenger rail service provider arising from a competitive bid process in which Amtrak and the passenger rail service provider participated.

**"(2) DEFINITIONS.—**For the purposes of this subsection—

**"(A)** the term 'outside legal professional' means any individual, corporation, partnership, limited liability corporation, limited liability partnership, or other private entity in the business of providing legal services that is not employed on a full-time basis solely by Amtrak; and

**"(B)** the term 'passenger rail service provider' means any company, partnership, or other public or private entity that operates passenger rail service or bids to operate passenger rail service in a competitive process."

**SEC. 8103. APPLICABILITY OF LAWS.**

**(a) TITLE 18 VIOLATIONS.—**For purposes of sections 286, 287, 371, 641, 1001, and 1002 of title 18, United States Code, and, with respect to audits conducted by the Amtrak Office of the Inspector General, for purposes of section 1516 of such title, Amtrak and the Amtrak Office of the Inspector General shall be considered to be agencies of the United States Government.

**(b) FALSE CLAIMS.—**Claims made or presented to Amtrak shall be considered as claims under section 3729(b)(2)(A)(ii) of title 31, United States Code, and statements made or presented to Amtrak shall be considered as statements under section 3729(a)(1)(B) and (G) of title 31, United States Code.

**(c) LIMITATION.—**Subsections (a) and (b) shall be effective only with respect to a fiscal year for which Amtrak receives a Federal subsidy.

**SEC. 8104. INSPECTOR GENERAL OF AMTRAK.**

**(a) IN GENERAL.—**Chapter 243 is amended by inserting after section 24316 the following:

**"§ 24317. Inspector General**

**"(a) INVESTIGATION AUTHORITY.—**The Inspector General of Amtrak shall have all authority available to other Inspectors General, as necessary in carrying out the duties specified in the Inspector General Act 1978 (5 U.S.C. App. 3), to investigate any alleged violation of section 286, 287, 371, 641, 1001, or 1002 of title 18, and, with respect to audits conducted by the Amtrak Office of the Inspector General, any violation of section 1516 of such title.

**"(b) SERVICES FROM GENERAL SERVICES ADMINISTRATION.—**The Inspector General of Amtrak may obtain from the Administrator of General Services, and the Administrator shall provide to the Inspector General, services under sections 502(a) and 602 of title 40, including travel programs.

**"(c) QUALIFIED IMMUNITY.—**

**"(1) IN GENERAL.—**An employee of the Amtrak Office of Inspector General shall enjoy the same personal qualified immunity from lawsuit or liability as the employees of other inspectors general that operate under authority of the Inspector General Act of 1978 with respect to the performance of investigative, audit, or inspection functions authorized under that Act that are carried out for the Amtrak Office of Inspector General.

**"(2) FEDERAL GOVERNMENT LIABILITY.—**No liability of any kind shall attach to or rest upon the United States for any damages from or by any actions of the Amtrak Office of Inspector General, its employees, agents, or representatives."

**(b) CONFORMING AMENDMENT.—**The table of sections for chapter 243 is amended by inserting after the item relating to section 24316 the following:

"24317. Inspector General."

**SEC. 8105. AMTRAK MANAGEMENT ACCOUNTABILITY.**

Section 24310 is amended to read as follows:

**“§ 24310. Management accountability**

“(a) **IN GENERAL.**—Promptly after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and again not later than 5 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by the Department of Transportation, and the Inspector General of Amtrak shall complete an overall assessment of the progress made by Amtrak management, in implementing the provisions of the Passenger Rail Investment and Improvement Act of 2008.

“(b) **ASSESSMENT.**—The management assessment undertaken by the Amtrak Inspector General may include a review of—

- “(1) effectiveness in improving annual financial planning;
- “(2) effectiveness in implementing improved financial accounting;
- “(3) efforts to implement minimum train performance standards;
- “(4) progress maximizing revenues, minimizing Federal subsidies, and improving financial results; and
- “(5) any other aspect of Amtrak operations the Amtrak Inspector General finds appropriate to review.”

**SEC. 8106. AMTRAK FOOD AND BEVERAGE SERVICE.**

(a) **AUTHORITY.**—Section 24305(c)(4) of title 49, United States Code, is amended by striking “only if revenues from the services each year at least equal the cost of providing the services” and inserting “only as provided in subsection (h)”.

(b) **PROCEDURES.**—Section 24305 of title 49, United States Code, is further amended by adding at the end the following new subsection:

**“(h) FOOD AND BEVERAGE SERVICE.—**

“(1) **IN GENERAL.**—Except as provided in paragraph (6), food and beverage service may be provided on Amtrak trains only by a bidder selected by the Federal Railroad Administration under paragraph (5). The Federal Railroad Administration may consult with and obtain assistance from the General Services Administration in carrying out this subsection.

“(2) **REQUESTS FOR PROPOSALS.**—Not later than 60 days after the date of enactment of this subsection, the Federal Railroad Administration shall issue separate requests for proposals for provision of food and beverage service on Amtrak trains on the national rail passenger transportation system for each of subparagraphs (A) through (D) of section 24102(5).

**“(3) DEADLINES.—**

“(A) **SUBMITTAL OF BIDS.**—Bids for the provision of food and beverage service on Amtrak trains pursuant to the requests for proposals issued under paragraph (2) shall be submitted to the Federal Railroad Administration not later than 60 days after the issuance of the relevant request for proposals.

“(B) **SELECTION OF WINNING BIDS.**—The Federal Railroad Administration shall select winning bidders pursuant to paragraph (5) not later than 90 days after the issuance of the relevant request for proposals.

“(4) **AMTRAK PARTICIPATION.**—Amtrak may participate in the bidding pursuant to a request for proposals issued under paragraph (2).

“(5) **SELECTION OF PROVIDERS.**—The Federal Railroad Administration shall select for the provision of food and beverage service on Amtrak trains the qualified bidder responding to the request for proposals issued under paragraph (2) whose bid would result in the lowest cost, or the greatest source of revenue, to Amtrak.

“(6) **EXEMPTION.**—If no qualified bidder responds to the request for proposals issued under paragraph (2), Amtrak, after transmitting to the Federal Railroad Administration and the Congress an explanation of the reasons for the need of an exemption, may request from the Federal Railroad Administration, and the Federal Railroad Administration may grant, an exemption from the limitations under this subsection.

“(7) **SUBSIDY FOR NET LOSS.**—The Federal Railroad Administration shall provide directly to the entity providing food and beverage service on Amtrak trains any portion of appropriations for Amtrak necessary to cover a net loss resulting from the provision of such service, but only to the extent that such net loss was anticipated in the bid selected.”

**SEC. 8107. APPLICATION OF BUY AMERICA TO AMTRAK.**

Section 24305(f) of title 49, United States Code, is amended by adding at the end the following new paragraphs:

"(5) The requirements of this subsection apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least one contract for the project is funded with amounts made available to carry out this title.

"(6) If the Secretary receives a request for an exemption under this subsection, the Secretary shall provide notice of and an opportunity for public comment on the request at least 30 days before making a finding based on the request. Such a notice shall include the information available to the Secretary concerning the request and shall be provided by electronic means, including on the official public Internet Web site of the Department of Transportation. If the Secretary grants an exemption under this subsection, the Secretary shall publish in the Federal Register a detailed justification for the exemption that addresses the public comments received under this paragraph and shall ensure that such justification is published before the exemption takes effect."

## Subtitle C—Project Development and Review

**SEC. 8201. PROJECT DEVELOPMENT AND REVIEW.**

(a) AMENDMENT.—Part B of subtitle V of title 49, United States Code, is amended by adding at the end the following new chapter:

### "CHAPTER 229—PROJECT DEVELOPMENT AND REVIEW"

"Sec.

"22901. Applicability.

"22902. Definitions.

"22903. Efficient environmental reviews for rail project decisionmaking.

"22904. Integration of planning and environmental review.

"22905. Program for eliminating duplication of environmental reviews.

"22906. Railroad corridor preservation.

"22907. Treatment of railroads for historic preservation.

"22908. Categorical exclusion.

"22909. State assumption of responsibility for categorical exclusions.

"22910. Rail project delivery program.

"22911. Exemption in emergencies.

#### "§ 22901. Applicability

"The provisions of this chapter—

"(1) shall be applicable to any freight or intercity passenger rail capital project that is carried out or planned to be carried out with the use of Federal funds administered by the Federal Railroad Administration through a grant, contract, loan, or other financing instrument;

"(2) shall be broadly construed; and

"(3) may be applied by the Secretary to any class or program of such projects.

#### "§ 22902. Definitions

"In this chapter, the following definitions apply:

"(1) AGENCY.—The term 'agency' means any agency, department, or other unit of Federal, State, local, or Indian tribal government.

"(2) ENVIRONMENTAL IMPACT STATEMENT.—The term 'environmental impact statement' means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) ENVIRONMENTAL LAW.—The term 'environmental law' includes any law that provides procedural or substantive protection, as applicable, for the natural or built environment with regard to the construction and operation of transportation projects.

"(4) ENVIRONMENTAL REVIEW PROCESS.—

"(A) IN GENERAL.—The term 'environmental review process' means the process for preparing for a rail project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).



"(B) INCLUSIONS.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a rail project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(5) FEDERAL ENVIRONMENTAL LAWS.—The term 'Federal environmental laws' means Federal laws governing the review, including through the issuance of permits and other approvals of environmental impacts of, the construction and operation of transportation projects. Such term includes section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), section 106 of the National Historic Preservation Act (16 U.S.C. 470f), and sections 7(a)(2), 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B), 1539(a)(1)(B)).

"(6) FEDERAL LEAD AGENCY.—The term 'Federal lead agency' means the Department of Transportation.

"(7) JOINT LEAD AGENCY.—The term 'joint lead agency' means an agency designated as a joint lead agency as described in paragraph (1) or (2) of section 22903(b).

"(8) LEAD AGENCY.—The term 'lead agency' means the Department of Transportation and, if applicable, any joint lead agency.

"(9) PLANNING PRODUCT.—The term 'planning product' means any decision, analysis, study, or other documented result of an evaluation or decisionmaking process carried out during rail and transportation planning.

"(10) PROJECT SPONSOR.—The term 'project sponsor' means the State agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a rail project.

"(11) RAIL PROJECT.—The term 'rail project' means any freight or intercity passenger rail capital project that is carried out or is planned to be carried out with the use of Federal funds administered by the Federal Railroad Administration through a grant, contract, loan, or other financing instrument.

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(13) STATE.—The term 'State' has the meaning given that term in section 22701(3).

"(14) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means any statewide agency of a State with responsibility for one or more modes of transportation.

#### "§ 22903. Efficient environmental reviews for rail project decisionmaking

##### "(a) APPLICABILITY.—

"(1) IN GENERAL.—The project development procedures in this section are applicable to all rail projects for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 and may be applied, to the extent determined appropriate by the Secretary, to other rail projects for which an environmental document is prepared as part of an environmental review process.

"(2) FLEXIBILITY.—Any authorities granted in this section may be exercised, and any requirements established in this section may be satisfied, for a rail project, class of projects, or program of rail projects.

"(3) FUNDING THRESHOLD.—The Secretary's approval of a rail project involving Federal funds shall not be considered a Federal action for the purposes of the National Environmental Policy Act of 1969 if the Federal funding share—

"(A) constitutes 15 percent or less of the total estimated project costs; or

"(B) is less than \$10,000,000.

"(4) PROGRAMMATIC COMPLIANCE.—At the request of a State, the Secretary may modify the procedures developed under this section to encourage programmatic approaches and strategies with respect to environmental programs and permits (in lieu of project-by-project reviews).

##### "(b) LEAD AGENCIES.—

"(1) IN GENERAL.—If the rail project requires approval from more than one modal administration within the Department of Transportation, the Secretary shall designate a single modal administration to serve as the Federal lead agency for the Department in the environmental review process for the project.

"(2) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969.

"(3) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity applying to receive or receiving Federal funds for the rail project shall serve as a joint lead agency with the Department of Transportation for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.

"(4) ENSURING COMPLIANCE.—The Secretary shall ensure that a project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection, and that such document is appropriately supplemented if rail project changes become necessary.

"(5) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection shall be adopted and used by any Federal agency in making any approval of a rail project as the document required to be completed under the National Environmental Policy Act of 1969.

"(6) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any rail project, the lead agency shall have authority and responsibility—

"(A) to take such actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the rail project; and

"(B) to prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 is completed in accordance with this section and other applicable Federal law.

"(c) PARTICIPATING AGENCIES.—

"(1) IN GENERAL.—The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.

"(2) INVITATION.—The lead agency shall identify, as early as practicable in the environmental review process for a rail project, any other Federal and non-Federal agencies that may have an interest in the rail project, and shall invite such agencies to become participating agencies in the environmental review process for the rail project. The invitation shall set a deadline for responses to be submitted. The deadline may be extended by the lead agency for good cause.

"(3) FEDERAL PARTICIPATING AGENCIES.—Any Federal agency that is invited by the lead agency to participate in the environmental review process for a rail project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency—

"(A) has no jurisdiction or authority with respect to the rail project;

"(B) has no expertise or information relevant to the rail project; and

"(C) does not intend to submit comments on the rail project.

"(4) EFFECT OF DESIGNATION.—

"(A) REQUIREMENT.—A participating agency shall comply with the requirements of this section and any schedule established under this section.

"(B) IMPLICATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

"(i) supports a proposed rail project; or

"(ii) has any jurisdiction over, or special expertise with respect to evaluation of, the rail project.

"(5) COOPERATING AGENCY.—A participating agency may also be designated by a lead agency as a 'cooperating agency' under the regulations contained in part 1500 of title 40, Code of Federal Regulations.

"(6) DESIGNATIONS FOR CATEGORIES OF RAIL PROJECTS.—The Secretary may exercise the authorities granted under this subsection for a rail project, class of rail projects, or program of rail projects.

"(7) CONCURRENT REVIEWS.—Each participating agency and cooperating agency shall—

"(A) carry out obligations of that agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

"(d) RAIL PROJECT INITIATION.—The project sponsor shall notify the Secretary of the type of work, length, and general location of the proposed rail project, together with a statement of any Federal approvals anticipated to be necessary for the proposed rail project, for the purpose of informing the Secretary that the environmental review process should be initiated. The project sponsor may satisfy this requirement by submitting to the Secretary a draft notice for publication in the Federal Register announcing the preparation of an environmental impact statement for the rail project.

"(e) PURPOSE AND NEED.—

"(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a rail project.

"(2) DEFINITION.—Following participation under paragraph (1), the lead agency shall define the rail project's purpose and need for purposes of any document which the lead agency is responsible for preparing for the rail project.

"(3) OBJECTIVES.—The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include—

"(A) achieving a transportation objective identified in an applicable rail or transportation plan;

"(B) supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans;

"(C) serving national defense, national security, or other national objectives, as established in Federal laws, plans, or policies; and

"(D) serving the purpose for which the applicable grant, contract, loan, or other financing program was established.

"(4) ALTERNATIVES ANALYSIS.—

"(A) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a rail project.

"(B) RANGE OF ALTERNATIVES.—

"(i) IN GENERAL.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the rail project.

"(ii) RESTRICTION.—A Federal agency may not require the evaluation of any alternative that was evaluated, but not adopted—

"(I) in any prior State or Federal environmental document with regard to the applicable transportation or rail plan or program; or

"(II) after the preparation of a programmatic or tiered environmental document that evaluated alternatives to the rail project.

"(iii) LEGAL SUFFICIENCY.—The evaluation of the range of alternatives shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.

"(C) METHODOLOGIES.—

"(i) IN GENERAL.—The lead agency also shall determine, after consultation with participating agencies as part of the scoping process, the methodologies to be used and the level of detail required in the analysis of each alternative for a rail project.

"(ii) COMMENTS.—Each participating agency shall limit comments on such methodologies to those issues that are within the authority and expertise of such participating agency.

"(iii) STUDIES.—The lead agency may not conduct studies proposed by any participating agency that are not within the authority or expertise of such participating agency.

"(D) PREFERRED ALTERNATIVE.—At the discretion of the lead agency, the preferred alternative for a rail project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development

of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.

**"(E) LIMITATIONS ON THE EVALUATION OF IMPACTS EVALUATED IN PRIOR ENVIRONMENTAL DOCUMENTS.—**

**"(i) IN GENERAL.—**The lead agency may not reevaluate, and a Federal agency may not require the reevaluation of, cumulative impacts or growth-inducing impacts where such impacts were previously evaluated in—

**"(I) a rail transportation plan or program;**

**"(II) a prior environmental document approved by the Secretary;**

or

**"(III) a prior State environmental document approved pursuant to a State law that is substantially equivalent to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).**

**"(ii) LEGAL SUFFICIENCY.—**The evaluation of cumulative impacts and growth inducing impacts shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.

**"(5) EFFECTIVE DECISIONMAKING.—**

**"(A) CONCURRENCE.—**At the discretion of the lead agency, a participating agency shall be presumed to concur in the determinations made by the lead agency under this subsection unless the participating agency submits an objection to the lead agency in writing within 30 days after receiving notice of the lead agency's determination and specifies the statutory basis for the objection.

**"(B) ADOPTION OF DETERMINATION.—**If the participating agency concurs or does not object within the 30-day period, the participating agency shall adopt the lead agency's determination for purposes of any reviews, approvals, or other actions taken by the participating agency as part of the environmental review process for the rail project.

**"(f) COORDINATION AND SCHEDULING.—**

**"(1) COORDINATION PLAN.—**

**"(A) IN GENERAL.—**The lead agency shall establish a rail plan for coordinating public and agency participation in and comment on the environmental review process for a rail project, category of rail projects, or program of rail projects. The coordination plan may be incorporated into a memorandum of understanding.

**"(B) SCHEDULE.—**

**"(i) IN GENERAL.—**The lead agency may establish as part of the coordination plan, after consultation with each participating agency for the rail project and with each State in which the rail project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the rail project.

**"(ii) FACTORS FOR CONSIDERATION.—**In establishing the schedule, the lead agency shall consider factors such as—

**"(I) the responsibilities of participating agencies under applicable laws;**

**"(II) resources available to the cooperating agencies;**

**"(III) overall size and complexity of the rail project;**

**"(IV) the overall schedule for and cost of the rail project; and**

**"(V) the sensitivity of the natural and historic resources that could be affected by the rail project.**

**"(C) CONSISTENCY WITH OTHER TIME PERIODS.—**A schedule under subparagraph (B) shall be consistent with any other relevant time periods established under Federal law.

**"(D) MODIFICATION.—**The lead agency may—

**"(i) lengthen a schedule established under subparagraph (B) for good cause; and**

**"(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.**

**"(E) DISSEMINATION.—**A copy of a schedule established under subparagraph (B), and of any modifications to the schedule, shall be—

(i) provided to all participating agencies and to the State transportation department of each State in which the rail project is located (and, if the State is not the project sponsor, to the project sponsor); and

(ii) made available to the public.

"(2) COMMENT DEADLINES.—The lead agency shall establish the following deadlines for comment during the environmental review process for a rail project:

(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such document, unless—

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(ii) the deadline is extended by the lead agency for good cause.

(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless—

“(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

"(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—

(A) **PRIOR APPROVAL DEADLINE.**—If a participating agency is required to make a determination regarding or otherwise approve or disapprove the rail project prior to the record of decision or finding of no significant impact of the lead agency, such participating agency shall make such determination or approval no later than 30 days after the lead agency publishes notice of the availability of a final environmental impact statement or other final environmental document, or no later than such other date that is otherwise required by law, whichever occurs first.

(B) OTHER DEADLINES.—With regard to any determination or approval of a participating agency that is not subject to subparagraph (A), each participating agency shall make any required determination regarding or otherwise approve or disapprove the rail project no later than 90 days after the date that the lead agency approves the record of decision or finding of no significant impact for the rail project, or not later than such other date that is otherwise required by law, whichever occurs first.

**"(C) DEEMED APPROVED.**—In the event that any participating agency fails to make a determination or approve or disapprove the rail project within the applicable deadline described in subparagraphs (A) and (B), the rail project shall be deemed approved by such participating agency and such approval shall be deemed to comply with the applicable requirements of Federal law.

“(D) JUDICIAL REVIEW.—

(C) shall not be subject to judicial review.

“(ii) WRITTEN FINDING.—The Secretary may issue a written finding verifying the approval made in accordance with this paragraph.

“(g) **ISSUE IDENTIFICATION AND RESOLUTION.**—

(1) **COOPERATION.**—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the rail project under applicable laws.

"(2) **LEAD AGENCY RESPONSIBILITIES.**—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the rail project area and the general locations of the alternatives under consideration. Such information may be based on existing data sources, including geographic information systems mapping.

(3) PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern regarding the rail project's potential environmental or socioeconomic impacts. In this paragraph, issues of concern include any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the rail project.

"(4) ISSUE RESOLUTION.—

"(A) MEETING OF PARTICIPATING AGENCIES.—At any time upon request of a project sponsor or the Governor of a State in which the rail project is located, the lead agency shall promptly convene a meeting with the relevant participating agencies, the project sponsor, and the Governor (if the meeting was requested by the Governor) to resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the rail project under applicable laws.

"(B) NOTICE THAT RESOLUTION CANNOT BE ACHIEVED.—If a resolution cannot be achieved within 30 days following such a meeting and a determination by the lead agency that all information necessary to resolve the issue has been obtained, the lead agency shall notify the heads of all participating agencies, the project sponsor, the Governor, the Committee on Environment and Public Works of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Council on Environmental Quality, and shall publish such notification in the Federal Register.

"(C) RESOLUTION FINAL.—

"(i) IN GENERAL.—The lead agency and participating agencies may not reconsider the resolution of any issue agreed to by the relevant agencies in a meeting under subparagraph (A).

"(ii) COMPLIANCE WITH APPLICABLE LAW.—Any such resolution shall be deemed to comply with applicable law notwithstanding that the agencies agreed to such resolution prior to the approval of the environmental document.

"(h) STREAMLINED DOCUMENTATION AND DECISIONMAKING.—

"(1) IN GENERAL.—The lead agency in the environmental review process for a rail project, in order to reduce paperwork and expedite decisionmaking, shall prepare a condensed final environmental impact statement.

"(2) CONDENSED FORMAT.—A condensed final environmental impact statement for a rail project in the environmental review process shall consist only of—

"(A) an incorporation by reference of the draft environmental impact statement;

"(B) any updates to specific pages or sections of the draft environmental impact statement as appropriate; and

"(C) responses to comments on the draft environmental impact statement and copies of the comments.

"(3) TIMING OF DECISION.—Notwithstanding any other provision of law, in conducting the environmental review process for a rail project, the lead agency shall combine a final environmental impact statement and a record of decision for the rail project into a single document if—

"(A) the alternative approved in the record of decision is either a preferred alternative that was identified in the draft environmental impact statement or is a modification of such preferred alternative that was developed in response to comments on the draft environmental impact statement; and

"(B) the Secretary determines that the lead agency, participating agency, or the project sponsor has committed to implement the measures applicable to the approved alternative that are identified in the final environmental impact statement.

"(i) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND RE-EVALUATION.—

"(1) SUPPLEMENTAL ENVIRONMENTAL REVIEW.—After the approval of a record of decision or finding of no significant impact with regard to a rail project, an agency may not require the preparation of a subsequent environmental document for such rail project unless the lead agency determines that—

"(A) changes to the rail project will result in new significant impacts that were not evaluated in the environmental document; or

"(B) new information has become available or changes in circumstances have occurred after the lead agency approval of the rail project that will result in new significant impacts that were not evaluated in the environmental document.

"(2) RE-EVALUATIONS.—The Secretary may only require the re-evaluation of a document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

"(A) the Secretary determines that the events in paragraph (1)(A) or (1)(B) apply; and

"(B) more than 5 years has elapsed since the Secretary's prior approval of the rail project or authorization of rail project funding.

"(3) CHANGE TO RECORD OF DECISIONS.—After the approval of a record of decision, the Secretary may not require the record of decision to be changed based solely because of a change in the fiscal circumstances surrounding the rail project.

"(j) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review processes.

"(k) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

"(1) IN GENERAL.—For a rail project that is subject to the environmental review process established under this section and for which funds are made available to a State under funding programs administered by the Federal Railroad Administration, the Secretary may approve a request by the State to provide such funds to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the rail projects in that State or participating in a State process that has been approved by the Secretary for that State. Such funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation or rail project planning and delivery for rail projects in that State.

"(2) ACTIVITIES ELIGIBLE FOR FUNDING.—Activities for which funds may be provided under paragraph (1) include transportation planning activities that precede the initiation of the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

"(3) AMOUNTS.—Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

"(4) CONDITION.—A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.

"(l) REGULATIONS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary, by regulation, shall—

"(A) implement this section; and

"(B) establish methodologies and procedures for evaluating the environmental impacts, including cumulative impacts and growth-inducing impacts, of rail projects subject to this section.

"(2) COMPLIANCE WITH APPLICABLE LAW.—Any environmental document that utilizes the methodologies and procedures established under this subsection shall be deemed to comply with the applicable requirements of—

"(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or its implementing regulations; or

"(B) any other Federal environmental statute applicable to rail projects.

"(m) LIMITATIONS ON CLAIMS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a rail project shall be barred unless it is filed within 90 days after publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

"(2) NEW INFORMATION.—The preparation of a supplemental environmental impact statement or other environmental document when required by this section shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 90 days after the date of publication of a notice in the Federal Register announcing such action.

"(n) LIMITATIONS ON JUDICIAL RELIEF.—Notwithstanding any other provision of law, the following limitations shall apply to actions brought before a court in connection with a rail project under this section:

"(1) Venue for any action shall be where the rail project is located.

"(2) A specific property interest impacted by the rail project in question must exist in order to have standing to bring an action.

"(3) No action may be commenced by any person alleging a violation of—

"(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), chapters 5 and 7 of title 5, or any other Federal environmental law if such Federal law is identified in the draft environmental impact statement, unless such person provided written notice to the lead agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on the draft environmental impact statement; or

"(B) any other law with regard to the rail project unless such person provided written notice to the applicable approving agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on such agency approval.

"(4) Elected or appointed officials working for the Federal Government or a State government may not be named in their individual capacities in an action if they are acting within the scope of their official duties.

#### "§ 22904. Integration of planning and environmental review

"(a) ADOPTION OF PLANNING PRODUCTS FOR USE IN NEPA PROCEEDINGS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law and subject to the conditions set forth in subsection (c), the Federal lead agency for a rail project, at the request of the project sponsors, may adopt and use a planning product in proceedings relating to any class of action in the environmental review process of the rail project.

"(2) PARTIAL ADOPTION OF PLANNING PRODUCTS.—The Federal lead agency may adopt a planning product under paragraph (1) in its entirety or may select portions for adoption.

"(3) TIMING.—A determination under paragraph (1) with respect to the adoption of a planning product shall be made at the time the lead agencies decide the appropriate scope of environmental review for the rail project.

"(b) APPLICABILITY.—

"(1) PLANNING DECISIONS.—Planning decisions that may be adopted pursuant to this section include—

"(A) a purpose and need or goals and objectives statement for the rail project, including with respect to whether private financial assistance or other special financial measures are necessary to implement the rail project;

"(B) a decision with respect to rail project location;

"(C) a decision with respect to the elimination of unreasonable alternatives and the selection of the range of reasonable alternatives for detailed study during the environmental review process;

"(D) a basic description of the environmental setting;

"(E) a decision with respect to methodologies for analysis; and

"(F) identifications of programmatic level mitigation for potential impacts that the Federal lead agency, in consultation with Federal, State, local, and tribal resource agencies, determines are most effectively addressed at a regional or national program level, including—

"(i) system-level measures to avoid, minimize, or mitigate impacts of proposed transportation and rail investments on environmental resources, including regional ecosystem and water resources; and

"(ii) potential mitigation activities, locations, and investments.

"(2) PLANNING ANALYSES.—Planning analyses that may be adopted pursuant to this section include studies with respect to—

"(A) freight and passenger rail needs and demands;

"(B) regional development and growth;

"(C) local land use, growth management, and development;

"(D) population and employment;

"(E) natural and built environmental conditions;

"(F) environmental resources and environmentally sensitive areas;

"(G) potential environmental effects, including the identification of resources of concern and potential cumulative effects on those resources, identified as a result of a statewide or regional cumulative effects assessment; and

"(H) mitigation needs for a proposed action, or programmatic level mitigation, for potential effects that the Federal lead agency determines are most effectively addressed at a regional or national program level.



"(c) CONDITIONS.—Adoption and use of a planning product under this section is subject to a determination by the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate, that the following conditions have been met:

"(1) The planning product was developed through a planning process conducted pursuant to applicable Federal law.

"(2) The planning process included broad consideration of freight and passenger rail needs and potential effects.

"(3) During the planning process, notice was provided, to the extent required by applicable law, through publication or other means to Federal, State, and local government agencies and tribal governments that might have an interest in the proposed rail project, and to members of the general public, of the planning products that the planning process might produce and that might be relied on during the environmental review process, and such entities have been provided an appropriate opportunity to participate in the planning process leading to such planning product.

"(4) Prior to determining the scope of environmental review for the rail project, the joint lead agencies have made documentation relating to the planning product available to Federal, State, and local governmental agencies and tribal governments that may have an interest in the proposed action, and to members of the general public.

"(5) There is no significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product.

"(6) The planning product is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.

"(7) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.

"(8) The planning product is appropriate for adoption and use in the environmental review process for the rail project.

"(d) EFFECT OF ADOPTION.—Notwithstanding any other provision of law, any planning product adopted by the Federal lead agency in accordance with this section shall not be reconsidered or made the subject of additional interagency consultation during the environmental review process of the rail project unless the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate, determines that there is significant new information or new circumstances that affect the continued validity or appropriateness of the adopted planning product. Any planning product adopted by the Federal lead agency in accordance with this section may be relied upon and used by other Federal agencies in carrying out reviews of the rail project.

"(e) RULE OF CONSTRUCTION.—This section may not be construed to make the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) process applicable to the transportation planning processes conducted under chapters 52 and 227 of this title, section 211 of the Passenger Rail Investment and Improvement Act of 2008, or section 26101 of this title. Initiation of the National Environmental Policy Act of 1969 process as a part of, or concurrently with, transportation planning activities does not subject transportation plans and programs to the National Environmental Policy Act of 1969 process. This section may not be construed to affect the use of planning products in the National Environmental Policy Act of 1969 process pursuant to other authorities under law or to restrict the initiation of the National Environmental Policy Act of 1969 process during planning.

**"§ 22905. Program for eliminating duplication of environmental reviews**

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish a program to eliminate duplicative environmental reviews and approvals under State and Federal law of rail projects. Under this program, a State may use State laws and procedures to conduct reviews and make approvals in lieu of Federal environmental laws and regulations, consistent with the provisions of this section.

"(2) PARTICIPATING STATES.—All States are eligible to participate in the program.

"(3) SCOPE OF ALTERNATIVE REVIEW AND APPROVAL PROCEDURES.—For purposes of this section, alternative environmental review and approval procedures may include one or more of the following:

"(A) Substitution of one or more State environmental laws for one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State environmental laws provide environmental protection and opportunities for public involvement that are substantially equivalent to the applicable Federal environmental laws.

"(B) Substitution of one or more State regulations for Federal regulations implementing one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State regulations provide environmental protection and opportunities for public involvement that are substantially equivalent to the Federal regulations.

"(b) APPLICATION.—To participate in the program, a State shall submit to the Secretary an application containing such information as the Secretary may require, including—

"(1) a full and complete description of the proposed alternative environmental review and approval procedures of the State;

"(2) for each State law or regulation included in the proposed alternative environmental review and approval procedures of the State, an explanation of the basis for concluding that the law or regulation meets the requirements under subsection (a)(3); and

"(3) evidence of having sought, received, and addressed comments on the proposed application from the public and appropriate Federal environmental resource agencies.

"(c) REVIEW OF APPLICATION.—The Secretary shall—

"(1) review an application submitted under subsection (b);

"(2) approve or disapprove the application in accordance with subsection (d) not later than 90 days after the date of the receipt of the application; and

"(3) transmit to the State notice of the approval or disapproval, together with a statement of the reasons for the approval or disapproval.

"(d) APPROVAL OF STATE PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall approve each such application if the Secretary finds that the proposed alternative environmental review and approval procedures of the State are substantially equivalent to the applicable Federal environmental laws and Federal regulations.

"(2) EXCLUSION.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall not apply to any decision by the Secretary to approve or disapprove any application submitted pursuant to this section.

"(e) COMPLIANCE WITH PERMITS.—Compliance with a permit or other approval of a rail project issued pursuant to a program approved by the Secretary under this section shall be deemed compliance with the Federal laws and regulations identified in the program approved by the Secretary pursuant to this section.

"(f) REVIEW AND TERMINATION.—

"(1) REVIEW.—All State alternative environmental review and approval procedures approved under this section shall be reviewed by the Secretary not less than once every 5 years.

"(2) PUBLIC NOTICE AND COMMENT.—In conducting the review process under paragraph (1), the Secretary shall provide notice and an opportunity for public comment.

"(3) EXTENSIONS AND TERMINATIONS.—At the conclusion of the review process, the Secretary may extend the State alternative environmental review and approval procedures for an additional 5-year period or terminate the State program.

"(g) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section, and annually thereafter, the Secretary shall submit to Congress a report that describes the administration of the program.

**"§ 22906. Railroad corridor preservation**

"(a) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way and adjacent real property interests before the completion of the environmental reviews for any rail project that may use the right-of-way and the real property interests if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

"(b) ENVIRONMENTAL REVIEWS.—Railroad right-of-way and real property interests acquired under this section may not be developed in anticipation of final approval

of the rail project until all required environmental reviews for the rail project have been completed.

**“§ 22907. Treatment of railroads for historic preservation**

“Except for a railroad operated as a historic site with the purpose of preserving the railroad for listing in the National Register of Historic Places, a railroad subject to the safety regulation jurisdiction of the Federal Railroad Administration, or any portion of such railroad, or any property in current or former use by a railroad and intended to be restored to use by a railroad, shall not be considered a historic site, district, object, structure, or property of national, State, or local significance for purposes of section 303 of this title or section 106 or 110 of the National Historic Preservation Act (16 U.S.C. 470f or 470h-2) by virtue of being listed as a resource in, or eligible for listing in, the National Register of Historic Places. At the discretion of the Secretary, with the advice of the Department of the Interior, significant individual elements of a railroad such as depots and major bridges would be subject to such section 106 or 110.

**“§ 22908. Categorical exclusion**

“(a) TREATMENT OF RAIL PROJECTS.—The Secretary shall, for the purposes of this title, treat a rail project as a class of action categorically excluded from the requirements relating to the environmental assessment process or the preparation of environmental impact statements under the standards promulgated by the Council on Environmental Quality (40 C.F.R. 1508.4), if such rail project—

“(1) replaces or maintains existing railroad equipment; track and bridge structures; electrification, communication, signaling, or security facilities; stations; maintenance-of-way and maintenance-of-equipment bases; or other existing railroad-related facilities;

“(2) is a rail line addition of any length within an existing right of way;

“(3) is related to the implementation of positive train control systems, as required by section 20157 of title 49, United States Code; or

“(4) replaces, reconstructs, or rehabilitates an existing railroad bridge, including replacement of a culvert, that does not require the acquisition of a significant amount of right-of-way.

“(b) ADDITIONAL ACTIONS.—If a rail project qualifies for categorical exclusion under this section except for additional actions that do not fit in the relevant category, the rail project may be categorically excluded if the Secretary determines, based on information provided by the project sponsor, that the additional actions meet the standards for categorical exclusion promulgated by the Council on Environmental Quality (40 C.F.R. 1508.4).

“(c) OTHER OPERATING ADMINISTRATIONS’ CATEGORICAL EXCLUSIONS.—If a rail project would be eligible for categorical exclusion from the requirements relating to the environmental assessment process or the preparation of environmental impact statements by another operating administration of the Department of Transportation, the Federal Railroad Administration may categorically exclude the rail project.

**“§ 22909. State assumption of responsibility for categorical exclusions**

“(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

“(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

“(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and for any type of activity for which a categorical exclusion classification is appropriate.

“(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(4) PRESERVATION OF FLEXIBILITY.—The Secretary shall not require a State, as a condition of assuming responsibility under this section, to forego project delivery methods that are otherwise permissible for rail projects.

“(b) OTHER APPLICABLE FEDERAL LAWS.—

"(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal environmental law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

"(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

"(c) MEMORANDA OF UNDERSTANDING.—

"(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

"(2) TERM.—A memorandum of understanding—

"(A) shall have a term of not more than 3 years; and

"(B) shall be renewable.

"(3) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

"(4) MONITORING.—The Secretary shall—

"(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

"(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

"(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

"(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.

**"§ 22910. Rail project delivery program**

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall carry out a rail project delivery program (referred to in this section as the 'program').

"(2) ASSUMPTION OF RESPONSIBILITY.—

"(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to one or more rail projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

"(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific rail project; but

"(ii) the Secretary may not assign any responsibility imposed on the Secretary by chapter 227 of this title.

"(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

"(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

"(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a rail project.

"(F) PRESERVATION OF FLEXIBILITY.—The Secretary may not require a State, as a condition of participation in the program, to forego project delivery methods that are otherwise permissible for rail projects.

"(b) STATE PARTICIPATION.—

"(1) PARTICIPATING STATES.—All States are eligible to participate in the program.

"(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

"(A) the rail projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

"(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

"(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

"(3) PUBLIC NOTICE.—

"(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

"(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

"(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

"(A) the regulatory requirements under paragraph (2) have been met;

"(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

"(C) the head of the State agency having primary jurisdiction over rail matters enters into a written agreement with the Secretary described in subsection (c).

"(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

"(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

"(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for rail construction;

"(2) be in such form as the Secretary may prescribe;

"(3) provide that the State—

"(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

"(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

"(C) certifies that State laws (including regulations) are in effect that—

"(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

"(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

"(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed;

"(4) shall have a term of not more than 5 years; and

"(5) shall be renewable.

"(d) JURISDICTION.—

"(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

"(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

"(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

"(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (j).

"(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

"(g) AUDITS.—

"(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

"(A) semiannual audits during each of the first 2 years of State participation; and

"(B) annual audits during each of the third and fourth years of State participation.

"(2) PUBLIC AVAILABILITY AND COMMENT.—

"(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

"(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

"(h) MONITORING.—After the fourth year of participation of the State in the program, the Secretary shall monitor compliance by the State with the written agreement, including the provision by the State of financial resources to carry out the written agreement.

"(i) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

"(j) TERMINATION.—The Secretary may terminate the participation of any State in the program if—

"(1) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

"(2) the Secretary provides to the State—

"(A) notification of the determination of noncompliance; and

"(B) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

"(3) the State, after the notification and period provided under paragraph (2), fails to take satisfactory corrective action, as determined by Secretary.

#### "§ 22911. Exemption in emergencies

"If any railroad, track, bridge, or other facility is in operation or under construction when damaged by an emergency declared by the Governor of the State and concurred in by the Secretary, or declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121), is proposed to be reconstructed with Federal funds, and is reconstructed in the same location with the same capacity, dimensions, and design as before the emergency, then that reconstruction project shall be exempt from any further environmental reviews, approvals, licensing, and permit requirements under—

"(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(2) sections 402 and 404 of the Federal Water Pollution Control Act (33 U.S.C. 1342, 1344);

"(3) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

"(4) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

"(5) the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.);

"(6) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

"(7) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), except when the reconstruction occurs in designated critical habitat for threatened and endangered species;

"(8) Executive Order 11990 (42 U.S.C. 4321 note; relating to the protection of wetlands); and

"(9) any Federal law (including regulations) requiring no net loss of wetlands."

(b) CONFORMING AMENDMENT.—The chapter analysis for subtitle V of title 49, United States Code, is amended by inserting after the item relating to chapter 227 the following:

"229. Project development and review .....22901".

## Subtitle D—Railroad Rehabilitation and Improvement Financing

### SEC. 8301. RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.

#### (a) PURPOSE AND REGULATIONS.—

(1) PURPOSE.—The amendments made by this section are intended to encourage a higher level of participation in the railroad rehabilitation and improvement financing program under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 and to make the loan process under that program faster, more efficient, and more predictable.

(2) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the amendments made by this section in a manner that achieves the purpose stated in paragraph (1).

(b) HIGH-SPEED RAIL.—Section 502(b)(1)(C) of such Act (45 U.S.C. 822(b)(1)(C)) is amended by inserting ", including high-speed rail (as defined in section 26105(2) of title 49, United States Code) facilities" after "railroad facilities".

(c) PRIVATE INSURANCE.—Section 502(f)(1) of such Act (45 U.S.C. 822(f)(1)) is amended—

(1) by striking "under this section a commitment" and inserting "under this section private insurance, including bond insurance, or any other commitment"; and

(2) by inserting "or private insurance, including bond insurance," after "authority and credit risk premiums".

(d) FINANCING OF CREDIT RISK PREMIUM.—Section 502(f)(3) of such Act (45 U.S.C. 822(f)(3)) is amended by inserting ", or, at the discretion of the Secretary, in a series of payments over the term of the loan. If private insurance, including bond insurance, is used, the policy premium shall be paid before the loan is disbursed" after "of loan amounts".

#### (e) COLLATERAL.—

(1) FULL VALUE.—Section 502(h)(2) of such Act (45 U.S.C. 822(h)(2)) is amended by inserting "Such collateral shall be valued at 100 percent of the liquidated asset valuation, or going concern valuation when applicable." after "operation of the project".

(2) DEDICATED REVENUE AND SUBORDINATION.—Such section 502(h)(2) is further amended—

(A) by striking "(2) The Secretary" and inserting "(2)(A) The Secretary";

(B) by adding at the end of subparagraph (A) the following: "The Secretary may subordinate rights of the Secretary under any provision of title 49 or title 23 of the United States Code, to the rights of the Secretary under this section and section 503."; and

(C) by adding at the end the following new subparagraph:

"(B) In the case of an applicant that is a State, an Interstate compact, a local government authority as defined in section 5302 of title 49, United States Code, or a high-speed rail system as defined in section 26105 of title 49, United States Code, the Secretary shall, for purposes of making a finding under subsection (g)(4), accept the net present value on a future stream of State or local subsidy income or dedicated revenue as collateral offered to secure the loan."

(f) OFFICE OF MANAGEMENT AND BUDGET.—Section 502(i) of such Act (45 U.S.C. 822(i)) is amended by inserting "In order to enable compliance with such time limit, the Office of Management and Budget shall take any actions required with respect to the application within such 90-day period." after "disapprove the application."

(g) COMPLETION OF APPLICATION.—Section 502(i) of such Act (45 U.S.C. 822(i)) is further amended—

(1) by striking “DISAPPROVAL.—Not later than 90 days after receiving” and inserting “DISAPPROVAL.—

“(1) IN GENERAL.—Not later than 90 days after an application is determined pursuant to paragraph (2) to be”; and

(2) by adding at the end the following new paragraph:

“(2) COMPLETION OF APPLICATION.—The Secretary shall establish procedures for making a determination not later than 45 days after submission of an application under this section whether the application is complete. Such procedures shall—

“(A) provide for a checklist of the required components of a complete application;

“(B) provide that an independent financial analyst be assigned within 45 days of submittal to review the application;

“(C) require the Secretary to provide to the applicant a description of the specific components of the application that remain incomplete or unsatisfactory if an application is determined to be incomplete; and

“(D) permit reapplication without prejudice for applications determined to be incomplete or unsatisfactory.”

(h) REPAYMENT DEFERRAL.—Section 502(j) of such Act (45 U.S.C. 822(j)) is amended by adding at the end the following new paragraph:

“(3) TREATMENT OF COSTS ASSOCIATED WITH DEFERRAL.—Any additional costs associated with a deferred repayment schedule under paragraph (1) may be financed over the remaining term of the loan beginning at the time the payments begin, or may be included in the credit risk premium determined under subsection (f)(2).”

(i) POSITIVE TRAIN CONTROL.—

(1) PRIORITY.—Section 502(c)(1) of such Act (45 U.S.C. 822(c)(1)) is amended by inserting “, including projects for the installation of positive train control systems as defined in section 20157(i) of title 49, United States Code” after “public safety”.

(2) COLLATERAL.—Section 502(h)(2) of such Act (45 U.S.C. 822(h)(2)), as amended by this section, is further amended by adding at the end the following new subparagraph:

“(C) For purposes of making a finding under subsection (g)(4) with respect to an application for a project for the installation of positive train control systems, the collateral value of that asset shall be deemed to be equal to the total cost of the labor and materials associated with installing the positive train control systems.”

(j) REPORT TO CONGRESS.—Section 502 of such Act (45 U.S.C. 822) is amended by adding at the end the following new subsection:

“(k) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and annually thereafter, the Secretary shall transmit to the Congress a report on the program under this section that summarizes the number of loans approved and disapproved by the Secretary during the previous year. Such report shall not disclose the identity of loan or loan guarantee recipients. The report shall describe—

“(1) the number of preapplication meetings with potential applicants;

“(2) the number of applications received and determined complete under subsection (i)(2), including the requested loan amounts;

“(3) the dates of receipt of applications;

“(4) the dates applications were determined complete under subsection (i)(2);

“(5) the number of applications determined incomplete under subsection (i)(2);

“(6) the final decision dates for both approvals and denials of applications;

“(7) the number of applications withdrawn from consideration; and

“(8) the annual loan portfolio asset quality.”

(k) AUTHORIZATION OF APPROPRIATIONS.—Section 502 of such Act (45 U.S.C. 822) is amended by adding at the end the following new subsection:

“(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for purposes of carrying out subsections (f)(3) and (j)(3), \$50,000,000 for fiscal year 2013.”



## Subtitle E—Positive Train Control

### SEC. 8401. POSITIVE TRAIN CONTROL.

(a) RAILROAD SAFETY RISK REDUCTION PROGRAM.—Section 20156(e)(4) of title 49, United States Code, is amended to read as follows:

“(4) POSITIVE TRAIN CONTROL.—Except as required by section 20157 (relating to the requirements for implementation of positive train control systems), the Secretary shall ensure that each railroad carrier’s technology implementation plan required under paragraph (1) that includes a schedule for implementation of a positive train control system complies with that schedule. Nothing in this section shall be construed as requiring the installation of positive train control on railroad tracks if positive train control is not required on those tracks by section 20157 and positive train control on those tracks is not chosen by the railroad as a technology to be implemented under this section.”.

(b) IMPLEMENTATION OF POSITIVE TRAIN CONTROL SYSTEMS.—Section 20157 of title 49, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking “December 31, 2015” and inserting “December 31, 2020”;

(B) by inserting “and” after the semicolon at the end of subparagraph (A);

(C) by striking “; and” at the end of subparagraph (B) and inserting “on or after December 31, 2020.”; and

(D) by striking subparagraph (C);

(2) by adding at the end of subsection (a) the following new paragraph:

“(3) ALTERNATIVE STRATEGY.—A plan submitted under this subsection may provide that, in lieu of installing positive train control on all or some of the tracks on which positive train control is otherwise required to be installed pursuant to paragraph (1)(B), the railroad carrier will utilize an alternative risk reduction strategy that would reduce the risk of release of poison- or toxic-by-inhalation hazardous materials to the same extent the risk of a release of poison- or toxic-by-inhalation hazardous materials would be reduced if positive train control were installed on those tracks. An alternative risk reduction strategy may only be used pursuant to this paragraph on tracks for which positive train control is not required pursuant to paragraph (1)(A).”;

(3) in subsection (c)—

(A) by striking “APPROVAL.—Not later than 90 days after the Secretary receives a plan” and inserting “APPROVAL.—

“(1) IN GENERAL.—Not later than 90 days after the Secretary receives a plan or revision of a plan under this section”; and

(B) by adding at the end the following new paragraph:

“(2) REVISION OF PLAN.—A railroad carrier may revise a plan under this section as necessary to reflect rail lines that are added or removed, or to reflect alternative risk reduction strategies proposed pursuant to subsection (a)(3).”;

(4) in subsection (d)—

(A) by striking “December 31, 2012” and inserting “December 31, 2015”; and

(B) by inserting “and alternative risk reduction strategies. Such report shall include any recommendations for improving the ability of rail carriers to implement positive train control systems or alternative risk reduction strategies in accordance with this section” after “positive train control systems”;

(5) in subsection (e), by inserting “and alternative risk reduction strategies” after “positive train control”; and

(6) in subsection (f), by striking “or section 20156” the first place it appears.

## Subtitle F—Regulatory Reform

### SEC. 8501. FEDERAL RAILROAD ADMINISTRATION REGULATIONS.

(a) AMENDMENT.—Section 103 of title 49, United States Code, is amended by adding at the end the following new subsection:

“(1) IMPROVING REGULATION AND REGULATORY REVIEW.—

“(1) IN GENERAL.—Before any final regulation within the jurisdiction of the Administration is issued, the Administrator shall make all preliminary and

final determinations based on evidence and consider, in addition to other applicable considerations, the following:

“(A) The legal authority under which a rule may be proposed, including whether a rulemaking is required by statute, and if so, whether by a specific date, or whether the agency has discretion to commence a rulemaking.

“(B) Other statutory considerations applicable to whether the agency can or should propose a rule or undertake other agency action.

“(C) The specific nature and significance of the problem the agency may address with a rule (including the degree and nature of risks the problem poses and the priority of addressing those risks compared to other matters or activities within the agency’s jurisdiction), whether the problem warrants new agency action, and the countervailing risks that may be posed by alternatives for new agency action.

“(D) Whether existing rules have created or contributed to the problem the agency may address with a rule and whether those rules could be amended or rescinded to address the problem in whole or part.

“(E) The best reasonably obtainable scientific, technical, and other information related to the need for, and consequences of, the rule.

“(F) The potential costs and benefits, including direct, indirect, and cumulative costs and benefits and estimated impacts on jobs, economic growth, innovation, and economic competitiveness.

“(G) Means to increase the cost-effectiveness of any Federal response.

“(H) Incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility.

“(I) Any reasonable alternatives for a new rule or other response identified by the agency or interested persons, including not only responses that mandate particular conduct or manners of compliance, but also—

“(i) the alternative of no Federal response;

“(ii) amending or rescinding existing rules;

“(iii) potential regional, State, local, or tribal regulatory action or other responses that could be taken in lieu of agency action; and

“(iv) potential responses that—

“(I) specify performance objectives rather than conduct or manners of compliance;

“(II) establish economic incentives to encourage desired behavior;

“(III) provide information upon which choices can be made by the public; or

“(IV) incorporate other innovative alternatives rather than agency actions that specify conduct or manners of compliance.

“(2) PUBLIC COMMENT.—The Administrator shall solicit and take into consideration public comment on the subjects described in subparagraphs (A) through (I) of paragraph (1) before issuance of a final regulation described in paragraph (1).

“(3) AGENCY STATEMENTS.—

“(A) IN GENERAL.—The Administrator shall follow applicable rulemaking procedures under section 553 of title 5 before issuing a binding obligation applicable to recipients of Federal assistance.

“(B) BINDING OBLIGATION DEFINED.—In this paragraph, the term ‘binding obligation’ means a substantive policy statement, rule, or guidance document issued by the Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.”

(b) EFFECTIVE DATE.—Paragraphs (1) and (2) of the subsection (1) added by the amendment made by subsection (a) of this section shall be effective only with respect to regulations with respect to which no notice of proposed rulemaking has been issued before the date of enactment of this Act.

## Subtitle G—Technical Corrections

### SEC. 8601. MISCELLANEOUS CORRECTIONS, REVISIONS, AND REPEALS.

(a) TECHNICAL CORRECTIONS TO PROVISIONS OF THE UNITED STATES CODE ENACTED IN, OR AMENDED BY, THE RAIL SAFETY IMPROVEMENT ACT OF 2008.—(1) Section 1139 of title 49, United States Code, is amended—

- (A) in subsection (a)(1) by striking "phone number" and inserting "telephone number";
- (B) in subsection (a)(2) by striking "post trauma communication with families" and inserting "post-trauma communication with families"; and
- (C) in subsection (j)(2) by striking "railroad passenger accident" and inserting "rail passenger accident".
- (2) Section 10909 of title 49, United States Code, is amended—
  - (A) in subsection (b), by striking "Clean Railroad Act of 2008," and inserting "Clean Railroads Act of 2008,"; and
  - (B) in subsection (e), by striking "Upon the granting of petition from the State" and inserting "Upon the granting of a petition from the State".
- (3) Section 20116 of title 49, United States Code, is amended—
  - (A) by inserting "(1)" after "unless"; and
  - (B) by inserting "(2)" before "the code, rule, standard, requirement, or practice has been subject to notice and comment under a rule or order issued under this part."
- (4) Section 20120(a) of title 49, United States Code, is amended—
  - (A) by striking "website" and inserting "Web site";
  - (B) in paragraph (1), by striking "accident and incidence reporting" and inserting "accident and incident reporting";
  - (C) in paragraph (2)(G), by inserting "and" at the end; and
  - (D) in paragraph (5)(B), by striking "Administrative Hearing Officer or Administrative Law Judge" and inserting "administrative hearing officer or administrative law judge".
- (5) Section 20156 of title 49, United States Code, is amended—
  - (A) in subsection (c), by inserting a comma after "In developing its railroad safety risk reduction program"; and
  - (B) in subsection (g)(1), by inserting a comma after "good faith" and by striking "non-profit" and inserting "nonprofit".
- (6) Section 20157(a)(1)(B) of title 49, United States Code, is amended by striking "parts 171.8, 173.115, and 173.132" and inserting "sections 171.8, 173.115, and 173.132".
- (7) Section 20159 of title 49, United States Code, is amended by striking "the Secretary" and inserting "the Secretary of Transportation".
- (8) Section 20160 of title 49, United States Code, is amended—
  - (A) in subsection (a)(1), by striking "or with" and inserting "with"; and
  - (B) in subsection (b)(1)(A), by striking "or with" and inserting "with".
- (9) Section 20162(a)(3) of title 49, United States Code, is amended by striking "railroad compliance with Federal standards" and inserting "railroad carrier compliance with Federal standards".
- (10) Section 20164(a) of title 49, United States Code, is amended by striking "after enactment of the Railroad Safety Enhancement Act of 2008" and inserting "after the enactment of the Rail Safety Improvement Act of 2008".
- (11) Section 22106(b) of title 49, United States Code, is amended by striking "interest thereof" and inserting "interest thereon".
- (12) The item relating to section 24316 in the chapter analysis for chapter 243 of title 49, United States Code, is amended by striking "to assist families of passengers" and inserting "to address needs of families of passengers".
- (b) TECHNICAL CORRECTIONS TO RAIL SAFETY IMPROVEMENT ACT OF 2008.—(1) The table of contents in section 1(b) of the Rail Safety Improvement Act of 2008 is amended—
  - (A) in the item relating to section 307, by striking "website" and inserting "Web site";
  - (B) in the item relating to section 403, by striking "Track inspection time study" and inserting "Study and rulemaking on track inspection time; rulemaking on concrete cross ties";
  - (C) in the item relating to section 408, by striking "Conrail" and inserting "Consolidated Rail Corporation";
  - (D) in the item relating to title VI, by striking "SOLID WASTE FACILITIES" and inserting "SOLID WASTE RAIL TRANSFER FACILITIES"; and
  - (E) in the item relating to section 602 by striking "solid waste transfer facilities" and inserting "solid waste rail transfer facilities".
- (2) Section 2(a)(1) of the Rail Safety Improvement Act of 2008 is amended by inserting a comma after "tracks at grade".
- (3) Section 102(a)(6) of the Rail Safety Improvement Act of 2008 is amended to read as follows:

- "(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, incidents, injuries, and fatalities caused by catastrophic and other failures of such infrastructure."
- (4) Section 206(a) of the Rail Safety Improvement Act of 2008 is amended by striking "Public Service Announcements" and inserting "public service announcements".
- (5) Section 307 of the Rail Safety Improvement Act of 2008 is amended—
- (A) in the section heading, by striking "WEBSITE" and inserting "WEB SITE";
  - (B) in subsection (a), by striking "website" each place it appears and inserting "Web site"; and
  - (C) in subsection (b), by striking "website's" and inserting "Web site's".
- (6) Section 403 of the Rail Safety Improvement Act of 2008 is amended in the section heading by striking "TRACK INSPECTION TIME STUDY" and inserting "STUDY AND RULEMAKING ON TRACK INSPECTION TIME; RULEMAKING ON CONCRETE CROSS TIES".
- (7) Section 405 of the Rail Safety Improvement Act of 2008 is amended—
- (A) in subsection (a), by striking "cell phones" and inserting "cellular telephones"; and
  - (B) in subsection (d), by striking "Secretary of Transportation" and inserting "Secretary".
- (8) Section 408 of the Rail Safety Improvement Act of 2008 is amended in the section heading by striking "CONRAIL" and inserting "CONSOLIDATED RAIL CORPORATION".
- (9) Section 412 of the Rail Safety Improvement Act of 2008 is amended by striking "Secretary of Transportation" and inserting "Secretary".
- (10) Section 414 of the Rail Safety Improvement Act of 2008 is amended—
- (A) by striking "parts 171.8, 173.115," and inserting "sections 171.8, 173.115," and
  - (B) by striking "part 1520.5" and inserting "section 1520.5".
- (11) Section 416 of the Rail Safety Improvement Act of 2008 is amended—
- (A) by striking "Secretary of Transportation" and inserting "Secretary"; and
  - (B) in paragraph (4), by striking "subsection" and inserting "section".
- (12) Section 417(c) of the Rail Safety Improvement Act of 2008 is amended by striking "each railroad" and inserting "each railroad carrier".
- (13) Section 503 of the Rail Safety Improvement Act of 2008 is amended—
- (A) in subsection (b)—
    - (i) in paragraph (1), by striking "passenger rail accidents" and inserting "rail passenger accidents";
    - (ii) by striking "passenger rail accident" each place it appears and inserting "rail passenger accident"; and
    - (iii) in paragraph (4), by striking "a count of the number of passengers onboard the train" and inserting "a count of the number of passengers aboard the train"; and
  - (B) by adding at the end a new subsection (d) to read as follows:
 

"(d) DEFINITIONS.—In this section, the terms 'passenger' and 'rail passenger accident' have the meaning given those terms by section 1139 of this title."
- (14) The heading title VI of the Rail Safety Improvement Act of 2008 is amended by striking "SOLID WASTE FACILITIES" and inserting "SOLID WASTE RAIL TRANSFER FACILITIES".
- (15) The heading of section 602 of the Rail Safety Improvement Act of 2008 is amended by striking "SOLID WASTE TRANSFER FACILITIES" and inserting "SOLID WASTE RAIL TRANSFER FACILITIES".
- (c) TECHNICAL CORRECTIONS TO PROVISIONS OF THE UNITED STATES CODE ENACTED IN, OR AMENDED BY, THE PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008.—
- (1) ALTERNATE PASSENGER RAIL SERVICE PILOT.—Section 24711 of title 49, United States Code, is amended—
    - (A) in subsection (a)(1) by striking "a period not to exceed 5 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008" and inserting "an operations period of 5 years, renewable for a second 5-year operations period at the discretion of the Administrator"; and
    - (B) by inserting after subsection (e) the following new subsection:
 

"(f) TRANSFER AUTHORITY.—The Secretary of Transportation may provide directly to a winning bidder selected under this section any portion of appropriations for

Amtrak operations necessary to cover the operating subsidy described in subsection (a)(5)(B)."

(2) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—Section 26106(e)(2) of title 49, United States Code, is amended—

(A) in subparagraph (A)(v), by striking "that if an applicant has selected the proposed operator of its service, that the applicant provide", and inserting "that the applicant shall select the proposed operator of its service competitively, and that the applicant shall provide"; and

(B) in subparagraph (B)(ii)—

(i) by inserting "and" at the end of subclause (I);

(ii) by inserting "and" at the end of subclause (II); and

(iii) by striking subclauses (III) and (IV).

(d) STATE-SUPPORTED ROUTES.—Section 209(c) of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110-432, 122 Stat. 4918) is amended by striking "within 1 year after the Board's determination" and inserting "by the first day of the first fiscal year beginning at least 1 year after the Board's determination".

## Subtitle H—Miscellaneous

### SEC. 8701. APPLICATION OF BUY AMERICA TO INTERCITY PASSENGER RAIL SERVICE CORRIDORS.

Section 24405(a) of title 49, United States Code, is amended—

(1) by striking paragraph (4) and redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively; and

(2) by adding at the end the following new paragraphs:

"(11) The requirements of this subsection apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least one contract for the project is funded with amounts made available to carry out this title.

"(12) If the Secretary receives a request for a waiver under this subsection, the Secretary shall provide notice of and an opportunity for public comment on the request at least 30 days before making a finding based on the request. Such a notice shall include the information available to the Secretary concerning the request and shall be provided by electronic means, including on the official public Internet Web site of the Department of Transportation. If the Secretary issues a waiver under this subsection, the Secretary shall publish in the Federal Register a detailed justification for the waiver that addresses the public comments received under this paragraph and shall ensure that such justification is published before the waiver takes effect."

### SEC. 8702. PROHIBITION ON USE OF FUNDS FOR CALIFORNIA HIGH-SPEED RAIL.

No funds made available to carry out this Act or any amendment made by this Act may be used for high-speed rail in the State of California, for the California High-Speed Rail Authority, or for projects designed to further high-speed rail in the State of California.

### SEC. 8703. DISADVANTAGED BUSINESS ENTERPRISES.

(a) AVAILABILITY OF FUNDS.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any capital grant program under the jurisdiction of the Federal Railroad Administration shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning that term has under section 3 of the Small Business Act (15 U.S.C. 632), except that the term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of \$22,410,000, as adjusted annually by the Secretary of Transportation for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning that term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and

relevant subcontracting regulations issued pursuant to that Act, except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

(c) **COMPLIANCE WITH COURT ORDERS.**—Nothing in this subsection limits the eligibility of an entity or person to receive funds made available for any capital grant program under the jurisdiction of the Federal Railroad Administration, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

(d) **PROGRAM IMPLEMENTATION.**—This section shall be carried out by the Secretary and by States in a manner consistent with that by which the disadvantaged business enterprises program authorized by section 1101(c) of this Act is carried out.

## TITLE IX—HAZARDOUS MATERIAL TRANSPORTATION

### SEC. 9001. SHORT TITLE.

This title may be cited as the “Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012”.

### SEC. 9002. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

### SEC. 9003. FINDINGS.

Congress finds the following:

(1) There are annually 2.2 billion tons of hazardous material shipments by all modes across the United States totaling more than \$1.4 trillion.

(2) The number of fatalities and serious injuries caused by the transportation of hazardous material has been historically low, averaging 4.2 fatalities per 100 million shipments — meaning an American is about 4 times more likely to be killed by lightning than a hazardous material in transportation. In fiscal year 2010, there was the lowest number of hazardous material incidents on record.

(3) It is critical to the economic health of the Nation that the laws and regulations governing the transportation of hazardous material maintain a high level of safety, while balancing the need for economic growth, innovation, competitiveness, and job creation.

(4) The individuals involved in the transportation stream and the public benefit from a regulatory regime that is certain, uniform, cost-efficient, and science-based.

(5) Because of the potential risks to life, property, and the environment posed by an unintentional release of hazardous material, consistency and uniformity in laws and regulation regarding the transportation of hazardous material is necessary and desirable.

### SEC. 9004. PURPOSES.

Section 5101 is amended by striking “that are inherent”.

### SEC. 9005. DEFINITIONS.

(a) **HAZMAT EMPLOYER.**—Section 5102(4)(A)(i)(I) is amended by striking “or uses”.

(b) **TRANSPORTS.**—Section 5102(13) is amended to read as follows:

“(13) ‘transports’ or ‘transportation’—

“(A) means the movement of property and loading, unloading, handling, or storage incidental to the movement;

“(B) includes all activities related to—

“(i) loading or unloading packaged or containerized hazardous material, such as portable tanks, cylinders, and intermediate bulk containers, onto a transport vehicle, rail car, aircraft, or vessel at its origin, during en route movement, or at its destination; or

“(ii) loading or unloading a hazardous material into or from a bulk packaging with a capacity greater than 3,000 liters, such as a portable

tank, cargo tank, or rail tank car, at its origin, during en route movement, or at its destination; and  
 “(C) includes storage of a hazardous material from the time the hazardous material is loaded for purposes of movement until the hazardous material is unloaded at its destination, including during en route movement.”.

**SEC. 9006. GENERAL REGULATORY AUTHORITY.**

(a) **REGULATIONS FOR SAFE TRANSPORTATION.**—Section 5103(b)(1)(A) is amended—

- (1) in clause (vi) by striking “or” at the end;
- (2) by redesignating clause (vii) as clause (viii);
- (3) by inserting after clause (vi) the following:  
 “(vii) provides hazardous material transportation emergency response information services required or governed by regulations prescribed under this chapter; or”; and
- (4) in clause (viii) (as redesignated by paragraph (2) of this section) by striking “(vi); and” and inserting “(vii);”.

(b) **FITNESS DETERMINATIONS.**—

(1) **IN GENERAL.**—Section 5103(b)(1) is amended—

- (A) in subparagraph (B) by striking the period at the end and inserting “; and”; and
- (B) by adding at the end the following:

“(C) shall govern the procedures and criteria used by the Secretary for determining the fitness of a person applying for an approval or a special permit under the regulations.”.

(2) **REGULATION REQUIRED.**—In accordance with section 5103(b)(2) of title 49, United States Code, not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall take all actions necessary to finalize a regulation pursuant to section 5103(b)(1)(C) of such title.

(c) **IMPROVING REGULATIONS AND REGULATORY REVIEW.**—

(1) **IN GENERAL.**—Section 5103(b) is amended by adding at the end the following:

“(3) Before any final regulation within the jurisdiction of the Secretary is issued, the Secretary shall make all preliminary and final determinations based on evidence and consider, in addition to other applicable considerations, the following:

“(A) The legal authority under which a rule may be proposed, including whether a rulemaking is required by statute, and if so, whether by a specific date, or whether the agency has discretion to commence a rulemaking.

“(B) Other statutory considerations applicable to whether the agency can or should propose a rule or undertake other agency action.

“(C) The specific nature and significance of the problem the agency may address with a rule (including the degree and nature of risks the problem poses and the priority of addressing those risks compared to other matters or activities within the agency’s jurisdiction), whether the problem warrants new agency action, and the countervailing risks that may be posed by alternatives for new agency action.

“(D) Whether existing rules have created or contributed to the problem the agency may address with a rule and whether those rules could be amended or rescinded to address the problem in whole or part.

“(E) The best reasonably obtainable scientific, technical, and other information related to the need for, and consequences of, the rule.

“(F) The potential costs and benefits, including direct, indirect, and cumulative costs and benefits and estimated impacts on jobs, economic growth, innovation, and economic competitiveness.

“(G) Means to increase the cost-effectiveness of any Federal response.

“(H) Incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility.

“(I) Any reasonable alternatives for a new rule or other response identified by the agency or interested persons, including not only responses that mandate particular conduct or manners of compliance, but also—

- “(i) the alternative of no Federal response;
- “(ii) amending or rescinding existing rules;
- “(iii) potential regional, State, local, or tribal regulatory action or other responses that could be taken in lieu of agency action; and

“(iv) potential responses that—

“(I) specify performance objectives rather than conduct or manners of compliance;

“(II) establish economic incentives to encourage desired behavior;

“(III) provide information upon which choices can be made by the public; or

“(IV) incorporate other innovative alternatives rather than agency actions that specify conduct or manners of compliance.

“(4) The Secretary shall solicit and take into consideration public comment on the subjects described in subparagraphs (A) through (I) of paragraph (3) before issuance of a final regulation described in paragraph (3).

“(5) The Secretary shall follow applicable rulemaking procedures under section 553 of title 5 before issuing a binding obligation applicable to recipients of Federal assistance. In this paragraph, the term ‘binding obligation’ means a substantive policy statement, rule, or guidance document issued by the Secretary that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.”

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) of this subsection shall apply to regulations for which the notice of proposed rulemaking is published after the date of enactment of this Act.

(d) **INCORPORATION BY REFERENCE.**—Section 5103(b) is further amended by adding after paragraph (5) (as added by subsection (c)(1) of this section) the following:

“(6) In considering whether to incorporate by reference any publication in prescribing regulations, the Secretary shall—

“(A) consider—

“(i) the cost of such publication;

“(ii) the broadness of its applicability;

“(iii) the cost imposed on the public in acquiring such publication; and

“(iv) other alternatives to incorporation by reference; and

“(B) either incorporate by reference the publication or use the alternative that meets the Department of Transportation’s safety objectives in the most cost-effective manner.”

#### **SEC. 9007. INSPECTIONS OF MOTOR VEHICLES TRANSPORTING RADIOACTIVE MATERIAL.**

Section 5105(d) is amended to read as follows:

“(d) **INSPECTIONS OF MOTOR VEHICLES TRANSPORTING CERTAIN MATERIAL.**—

“(1) **REQUIREMENT.**—The Secretary shall require by regulation that before each use of a motor vehicle to transport a highway-route-controlled quantity of radioactive material in commerce, the vehicle shall be inspected and certified as complying with this chapter and applicable United States motor carrier safety laws and regulations.

“(2) **TYPE OF INSPECTOR.**—In carrying out paragraph (1), the Secretary may—

“(A) require that the inspection be carried out by an authorized United States Government inspector or according to appropriate State procedures; or

“(B) allow a person, transporting or causing to be transported a highway-route-controlled quantity of radioactive material, to inspect the motor vehicle used to transport the material and to certify that the vehicle complies with this chapter.

“(3) **QUALIFICATION REQUIREMENTS.**—An individual conducting an inspection under paragraph (2)(B) shall be in compliance with the inspector qualification requirements the Secretary prescribes for an individual inspecting a motor vehicle.

“(4) **PREEMPTION.**—Each State that a motor vehicle transporting a highway-route-controlled quantity of radioactive material in commerce enters shall recognize the inspection and certification required by paragraph (1) and may not require a new inspection at an equivalent level and certification except as provided in paragraph (5).

“(5) **CHANGED CONDITION.**—If an en route change to the condition of the cargo, the driver, the motor vehicle, or the operation of the motor vehicle invalidates the certification under paragraph (1), the State where such change is discovered may require a new inspection and certification under such paragraph.”

#### **SEC. 9008. HAZMAT EMPLOYEE TRAINING REQUIREMENTS AND GRANTS.**

(a) **TRAINING GRANTS.**—Section 5107 is amended—

(1) by striking subsections (e) and (h); and



(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(b) **SAFE LOADING, UNLOADING, AND HANDLING.**—Section 5107(f)(2), as redesignated by subsection (a)(2) of this section, is amended by striking “and section 5106”.

**SEC. 9009. FEES.**

Section 5108(g)(2) is amended—

(1) in subparagraph (A)—

(A) in the matter before clause (i) by striking “be at least \$250 but not more than” and inserting “not exceed”; and

(B) in clause (viii) by striking “sections 5108(g)(2), 5115,” and inserting “this paragraph and sections 5115”; and

(2) by adding at the end the following:

“(D) In establishing and collecting a fee under subparagraph (A), the Secretary may not consider whether a person has or is likely to apply for a special permit or approval, nor is the Secretary authorized to establish a separate fee in order to apply for or receive a special permit or approval.”

**SEC. 9010. MOTOR CARRIER SAFETY PERMITS.**

(a) **APPLICABLE TRANSPORTATION.**—Section 5109(b)(1) is amended by striking “class A or B” and inserting “division 1.1, 1.2, or 1.3”.

(b) **OFFEROR RESPONSIBILITY.**—The heading for subsection (f) of section 5109 is amended by striking “SHIPPER” and inserting “OFFEROR”.

(c) **TECHNICAL AMENDMENT.**—Section 5109 is amended by striking subsection (h).

(d) **PROGRAM REVIEW AND REPORT.**—

(1) **PROGRAM REVIEW.**—

(A) **IN GENERAL.**—Not later than 9 months after the date of enactment of this Act, the Secretary of Transportation shall conduct a proceeding, using notice and comment procedures in accordance with section 553 of title 5, United States Code, to examine the implementation of the hazardous material safety permit program established by section 5109 of title 49 of such Code, including—

(i) safety concerns related to former permit holders that have re-applied for a permit after being out of the program for a year or longer; and

(ii) fairness of the program for carriers whose total number of inspections over the course of the fiscal year cycle may create a disadvantage.

(B) **CONSULTATION.**—In carrying out subparagraph (A), the Secretary shall consult with motor carriers, persons offering hazardous material for transportation in commerce, the Commercial Vehicle Safety Alliance, and others that have direct experience with the implementation of the program.

(2) **REPORT.**—

(A) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the implementation of the hazardous material safety permit program established by section 5109 of title 49, United States Code.

(B) **CONTENTS.**—The report shall include—

(i) an identification of the number of permits that have been issued, denied, revoked, or suspended for each registration cycle since the inception of the program by the type of covered hazardous material transported;

(ii) an explanation of the reason for each denial, revocation, and suspension, including administrative denials, revocations, and suspensions;

(iii) a record and analysis of the types of implementation issues identified in the proceeding under paragraph (1)(A); and

(iv) a description of the Secretary's actions—

(I) to simplify the permit application process;

(II) to minimize the number of administrative denials, revocations, and suspensions;

(III) to address the issues identified under clause (iii); and

(IV) to ensure a consistent standard of safety fitness that does not fluctuate over time.

(e) **REGULATION.**—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall take such actions as are necessary to ensure that regulations prescribed to carry out the program under section 5109 of title 49,

United States Code, ensure a consistent standard of safety fitness that does not fluctuate over time and address issues identified in the proceeding in subsection (d)(1)(A).

**SEC. 9011. PLANNING AND TRAINING GRANTS, MONITORING, AND REVIEW.**

(a) **TRAINING GRANTS.**—Section 5116(b)(4) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by inserting “and subsection (a)” after “this subsection”; and

(B) by inserting “planning and” after “emergency response”; and

(2) in subparagraph (E) by inserting “and subsection (a)” before the period at the end.

(b) **COMPLIANCE WITH CERTAIN LAWS.**—Section 5116(c) is amended to read as follows:

“(c) **COMPLIANCE WITH CERTAIN LAW.**—The Secretary may make a grant to a State or Indian tribe under this section in a fiscal year only if—

“(1) the State certifies that the State complies with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001, 11003); and

“(2) the State or Indian tribe certifies to the Secretary that such State or Indian tribe is in compliance with section 5125(f).”

(c) **SUPPLEMENTAL TRAINING GRANTS.**—Section 5116(j) is amended—

(1) in paragraph (1) by striking “funds,” and all that follows through “fighting fires for” and inserting “funds and through a competitive process, make grants to national nonprofit fire service organizations for”; and

(2) in paragraph (3)(A) by striking “train” and inserting “provide portable training for”; and

(3) in paragraph (4)—

(A) by striking “train” and inserting “provide portable training for”; and

(B) by inserting after “training courses shall” the following: “comply with national consensus standards for hazardous material response and”.

(d) **REPORTS.**—Section 5116(k) is amended—

(1) in the first sentence by striking “planning grants” and all that follows through “and under section 5107” and inserting “grants allocated under subsections (a), (b), and (j)”; and

(2) in the second sentence—

(A) by inserting “planning and” before “training grants”; and

(B) by inserting “planning and” before “training programs”.

**SEC. 9012. SPECIAL PERMITS AND EXCLUSIONS.**

Section 5117 is amended—

(1) in subsection (a)—

(A) by striking “(a) **AUTHORITY TO ISSUE SPECIAL PERMITS.**—(1) As provided under procedures prescribed by regulation,” and inserting the following:

“(a) **AUTHORITY TO ISSUE SPECIAL PERMITS.**—

“(1) **IN GENERAL.**—As provided under procedures and criteria prescribed by regulation in accordance with section 553 of title 5,”;

(B) by inserting after paragraph (1) the following:

“(2) **REQUIREMENTS.**—The Secretary shall ensure that the procedures and criteria prescribed under paragraph (1) provide adequate consistency, predictability, and transparency in making the determinations to issue, modify, or terminate a special permit.”; and

(C) by striking “(2) A special permit” and inserting the following:

“(3) **EFFECTIVE PERIOD.**—A special permit”; and

(2) by adding at the end the following:

“(f) **LIMITATION ON DENIAL.**—The Secretary may not deny an application for a modification or renewal of a special permit or an application for party status to an existing special permit for the sole reason that the applicant has a hazardous material out-of-service percentage of greater than the national average, according to the safety and fitness records maintained by the Federal Motor Carrier Safety Administration.

“(g) **INCORPORATION INTO REGULATION.**—

“(1) **IN GENERAL.**—Not later than 1 year after the date on which a special permit has been in continuous effect for a 6-year period, the Secretary shall develop and implement a rulemaking pursuant to section 5103 to incorporate the special permit into regulation if the special permit—

“(A) concerns a matter of general applicability;

"(B) has future effect; and

"(C) is consistent with hazardous material safety.

"(2) INTENT.—Nothing in paragraph (1) limits the Secretary from incorporating a special permit into regulation at any time before the deadline set by paragraph (1).

"(3) OLDER SPECIAL PERMITS.—Not later than 3 years after the date of enactment of this subsection, the Secretary shall finalize a rulemaking pursuant to section 5103 to incorporate into regulation any special permit that concerns a matter of general applicability, has future effect, is consistent with hazardous material safety, and has been in continuous effect for more than a 6-year period as of the date of enactment of this subsection."

#### SEC. 9013. HAZARDOUS MATERIAL UNIFORM MOTOR CARRIER PERMIT PROGRAM.

Section 5119 is amended by striking subsection (a) and all that follows through the end of the section and inserting the following:

"(a) UNIFORM MOTOR CARRIER PERMIT PROGRAM DEFINED.—In this section, the term 'Uniform Motor Carrier Permit Program' means the State-based, reciprocal program of uniform forms and procedures for registering and permitting persons who transport hazardous material by motor vehicle developed and recommended by the Alliance for Uniform Hazmat Transportation Procedures, including any superseding amendments or revisions adopted by the Secretary pursuant to subsection (b).

"(b) REGULATIONS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012, the Secretary shall issue regulations to implement the Uniform Motor Carrier Permit Program.

"(2) REVISIONS.—The Secretary may modify the regulations issued under paragraph (1) only as necessary to promote safety, efficiency, and uniformity.

"(c) FINANCIAL AND TECHNICAL ASSISTANCE AND SUPPORT.—

"(1) IN GENERAL.—The Secretary may provide planning and transition assistance to States to facilitate the adoption of the Uniform Motor Carrier Permit Program.

"(2) USE OF FUNDS.—A State shall use assistance awarded under this subsection only to transition existing State registration and permitting programs to the Uniform Motor Carrier Permit Program.

"(3) TERMINATION OF AUTHORITY.—The authority to provide assistance to States under this subsection shall terminate 6 years after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012.

"(d) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement for outreach, data management, and other centralized functions supporting implementation of the Uniform Motor Carrier Permit Program.

"(e) RELATED EXPENSES.—For purposes of section 5125(f)(1), a fee used for a purpose related to transporting hazardous material may include the costs incurred in implementing and administering the Uniform Motor Carrier Permit Program, including the costs of establishing or modifying forms, procedures, and systems.

"(f) TRANSITION OF STATE PROGRAMS.—Not later than 6 years after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012, a State may enforce registration and permitting requirements for motor carriers that transport hazardous material in commerce only in accordance with the Uniform Motor Carrier Permit Program.

"(g) LIMITATION.—Nothing in this section shall define or limit the amount of a fee a State may impose or collect for registration and permitting."

#### SEC. 9014. INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.

Section 5120 is amended—

(1) in subsection (a) by striking "State, the Secretary of Transportation shall participate" and inserting "State and the Secretary of Transportation, the Administrator of the Pipelines and Hazardous Materials Safety Administration, or the Administrator's designee, shall represent the United States and serve as the United States competent authority"; and

(2) in subsection (b)—

(A) by striking "The Secretary" and inserting "The Administrator"; and

(B) by striking "sections 5103(b), 5104, 5110, and 5112 of this title" and inserting "this chapter".

**SEC. 9015. INVESTIGATIONS.**

(a) **INSPECTIONS AND INVESTIGATIONS.**—Section 5121(c)(1) is amended—

(1) in subparagraph (B) by striking “may contain a hazardous material,” and inserting “may contain an undeclared hazardous material and such activity takes place at a properly equipped facility designated by the Secretary for this purpose;”

(2) in subparagraph (C), in the matter preceding clause (i), by striking “or related packages” and inserting “suspected of containing undeclared hazardous material”;

(3) in subparagraph (E) by striking “may order” and all that follows through “; and” and inserting “may order the offeror, after giving notice to the carrier, to have the package transported to, opened, and the contents examined and analyzed at a properly equipped facility designated by the Secretary for this purpose;”

(4) in subparagraph (F) by striking the period at the end and inserting “; and”; and

(5) by adding at the end the following:

“(G) shall provide contemporaneous notice to the affected offeror and carrier of its decision to exercise its authority under subparagraph (B), (C), (D), or (E).”

(b) **REGULATIONS.**—

(1) **IN GENERAL.**—Section 5121(e) is amended to read as follows:

“(e) **REGULATIONS.**—To carry out subsections (c) and (d), the Secretary shall issue regulations in accordance with section 553 of title 5 that address, at a minimum, the following:

“(1) Avoidance of delay in the transportation of time-sensitive materials, such as medical products, perishables, and other packages that are not the subject of the inspection.

“(2) Appropriate training and equipment for inspectors.

“(3) Restoration of the properly certified status of the inspected package before resumption of transportation of that package.

“(4) Consideration of the costs and damages that might occur as a result of an inspection.”

(2) **REGULATION REQUIRED.**—In accordance with section 5103(b)(2) of title 49, United States Code, not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall take all actions necessary to finalize a regulation pursuant to section 5121(e) of such title.

**SEC. 9016. BUILDING PARTNERSHIPS FOR IMPROVED SAFETY AND SYSTEM PERFORMANCE.**

Section 5121(g) is amended—

(1) in paragraph (3) by striking “or” after the semicolon;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

“(4) to work with State enforcement personnel with information and training relating to the uniform enforcement of the regulations governing the transportation of hazardous material; or”.

**SEC. 9017. SAFETY REPORTING.**

Section 5121(h) is amended—

(1) in the heading by inserting “BIENNIAL” before “REPORT”;

(2) in the matter before paragraph (1) by striking “materials during” and inserting “material in all modes of transportation during”;

(3) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(4) by inserting after paragraph (1) the following:

“(2) a summary of the hazardous material transported during the period covered by the report, set forth by the type and quantity of hazardous material and by mode;”

(5) in paragraph (4), as redesignated by paragraph (3) of this section, by striking “permit” and inserting “permit issued”;

(6) in paragraph (5), as redesignated by paragraph (3) of this section, by striking “activities” and inserting “activities, including activities conducted under subsections (c) and (d),”; and

(7) in paragraph (7), as redesignated by paragraph (3) of this section, by striking “appropriate legislation” and inserting “legislative action that the Secretary considers appropriate”.

**SEC. 9018. CIVIL PENALTIES.**

(a) **PENALTY.**—Section 5123(a) is amended—

(1) in paragraph (1) by striking “at least \$250 but”;

(2) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(3) by adding at the end the following:

“(4) A carrier shall not be liable for violations of this chapter, or a regulation issued under this chapter, stemming from pre-transportation functions, as defined in section 171.1 of title 49, Code of Federal Regulations, that are performed by another person unless the carrier has actual knowledge of a violation.”.

(b) **PENALTY FOR FAILURE TO MAINTAIN RECORDS, REPORTS, AND INFORMATION.**—Section 5123 is amended by adding at the end the following:

“(h) **PENALTY FOR FAILURE TO MAINTAIN RECORDS, REPORTS, AND INFORMATION.**—The Secretary may impose a penalty on a person who fails to comply with section 5121(b).”.

**SEC. 9019. PREEMPTION.**

(a) **BURDEN ON COMMERCE.**—Section 5125(a) is amended—

(1) in paragraph (1) by striking “or” after the semicolon;

(2) in paragraph (2) by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(3) the requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an unreasonable burden on commerce.”.

(b) **SUBSTANTIVE DIFFERENCES.**—Section 5125(b)(1)(D) is amended by striking “written”.

(c) **ROUTE REGISTRY.**—Section 5125(c)(1) is amended by striking the period at the end and inserting “and is published in the Department’s hazardous material route registry under section 5112(c).”.

(d) **FEES.**—Section 5125(f)(2) is amended by striking “, upon the Secretary’s request,” and inserting “biennially”.

(e) **NON-FEDERAL ENFORCEMENT STANDARDS.**—Section 5125 is amended by striking subsection (h).

(f) **CONFORMING CHANGE.**—Section 5125 is further amended—

(1) in subsections (d)(1) and (e) by striking “or section 5119(f)”; and

(2) in subsection (g) by striking “, and in section 5119(f).”.

**SEC. 9020. AUTHORIZATION OF APPROPRIATIONS.**

Section 5128 is amended to read as follows:

**“§ 5128. Authorization of appropriations**

“(a) **IN GENERAL.**—In order to carry out this chapter (except sections 5108(g)(2), 5113, 5115, 5116, and 5119), there are authorized to be appropriated to the Secretary \$39,000,000 for each of fiscal years 2012 through 2016.

“(b) **HAZARDOUS MATERIAL EMERGENCY PREPAREDNESS FUND.**—For each of the fiscal years 2012 through 2016, there shall be available to the Secretary, from the account established pursuant to section 5116(i), the following:

“(1) To carry out section 5115, \$188,000.

“(2) To carry out subsections (a) and (b) of section 5116, \$21,800,000.

“(3) To carry out section 5116(f), \$150,000.

“(4) To publish and distribute the Emergency Response Guidebook under section 5116(j)(3), \$625,000.

“(5) To carry out section 5116(j), \$1,000,000.

“(c) **ISSUANCE OF HAZMAT LICENSES.**—There are authorized to be appropriated to the Secretary such amounts as may be necessary to carry out section 5103a.

“(d) **CREDITS TO APPROPRIATIONS.**—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, tribe, authority, or entity.

“(e) **UNIFORM FORMS AND PROCEDURES.**—There are authorized to be appropriated to the Secretary \$1,000,000 to carry out section 5119. This amount shall remain available to be expended by the Secretary for the 6-year period that begins on the date of enactment of this section.

“(f) **AVAILABILITY OF AMOUNTS.**—Amounts made available by or under this section, except for the amount under subsection (e), shall remain available until expended.”.

**SEC. 9021. ELECTRONIC SHIPPING PAPERS PILOT PROGRAM.**

(a) **IN GENERAL.**—The Secretary of Transportation shall establish pilot projects, at least one of which shall be in a rural area, to evaluate the feasibility and cost effectiveness of electronic shipping paper systems that facilitate the exchange of shipping paper information between offerors of hazardous material under chapter 51 of title 49, United States Code, carriers, and emergency responders.

**(b) REPORT.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the pilot projects carried out under this section.

(2) **CONTENTS.**—The report shall contain, at a minimum—

(A) an evaluation of each pilot project, including an evaluation of the impacts on safety and the performance of each system evaluated under that project and a cost-benefit analysis for each mode of transportation; and

(B) based on the results of the cost-benefit analyses, a recommendation on whether electronic shipping papers systems described in subsection (a) should be incorporated into the Federal hazardous material safety program under chapter 51 of title 49, United States Code, on a permanent basis.

**SEC. 9022. WETLINES.****(a) STUDY.**—

(1) **IN GENERAL.**—The Secretary of Transportation shall enter into an arrangement with an objective non-profit organization to conduct a peer-reviewed study of the transportation of flammable liquids in the external product piping of cargo tank motor vehicles (commonly referred to as “wetlines”).

(2) **CONTENTS.**—The study shall—

(A) accurately quantify the number of wetlines incidents over a 10-year period;

(B) identify various alternatives to loading and transporting flammable liquids in cargo tank wetlines;

(C) examine the costs and benefits of each alternative; and

(D) identify existing obstacles to implementing each alternative.

(3) **TRANSMITTAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a copy of the study.

(b) **REGULATORY RESTRICTION.**—The Secretary may not issue a final rule regulating the transportation of flammable liquids in the external product piping of cargo tank motor vehicles.

**SEC. 9023. PRODUCT STUDY.**

(a) **IN GENERAL.**—The Secretary shall conduct a study on whether it is necessary to continue to designate any amount or form of finished pharmaceutical, finished cosmetic, or similar product containing ethyl alcohol as a hazardous material under section 5103(a) of title 49, United States Code.

(b) **CONTENTS.**—The study conducted under subsection (a) shall include, at a minimum—

(1) an evaluation of the history, severity, and costs of any incidents in transporting such products;

(2) an evaluation of the risk posed by such products in commercial packaging in current use in transportation and the risk associated in transporting the products without any specific packaging required by any applicable special permit or regulation;

(3) the costs to the industry of designating the products as hazardous material, including the cost of regulation, as compared with the costs of incidents that have occurred or are probable with regard to the products; and

(4) a summary of comments from industry stakeholders and the public on whether there is a need for continued designation of such products as hazardous material.

(c) **TRANSMITTAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under subsection (a) and any proposed actions to be taken by the Secretary resulting from the study.

## TITLE X—WATERBORNE TRANSPORTATION

### SEC. 10001. SENSE OF CONGRESS ON HARBOR MAINTENANCE.

(a) **FINDINGS.**—Congress finds the following:

- (1) There are 926 ports served by federally maintained channels which handle more than 2.2 billion tons of cargo annually, and this figure is expected to increase.
- (2) More than \$1.1 trillion in foreign commerce enters the United States through the Nation's ports annually, and this figure is expected to increase.
- (3) Expansion of the Panama Canal system in Central America will likely be completed in 2014, and this will present opportunities and challenges for the Nation's economic well-being.
- (4) Insufficient maintenance dredging of the Nation's navigation channels results in inefficient water transportation and harmful economic consequences.
- (5) In 1986, Congress created the Harbor Maintenance Trust Fund to provide funds for the operation and maintenance of the Nation's navigation channels.
- (6) The fiscal year 2011, Harbor Maintenance Trust Fund equity grew by 13.7 percent from fiscal year 2010 (to \$6.42 billion) and total annual receipts increased 17.3 percent (to \$1.6 billion).
- (7) Despite growth of the Harbor Maintenance Trust Fund, expenditures from the Harbor Maintenance Trust Fund continue to decline.
- (8) Despite growth of the Harbor Maintenance Trust Fund, federally maintained channels are only at their authorized widths or depths 35 percent of the time, thereby restricting access to the Nation's ports for both imports and exports.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

- (1) the Harbor Maintenance Trust Fund is not being used for its intended purpose and charging maritime commerce a harbor maintenance tax while failing to provide the service for which it was established is unfair and places the Nation at economic risk;
- (2) the Administration should request full use of the Harbor Maintenance Trust Fund for operating and maintaining the Nation's navigation system; and
- (3) Congress should fully expend the amounts in the Harbor Maintenance Trust Fund to operate and maintain the Nation's navigation system.

### SEC. 10002. STUDY AND REPORT ON STRATEGIC PORTS.

(a) **STUDY REQUIREMENT.**—The Secretary shall conduct a study on infrastructure facility requirements, road and highway improvements, rail connections, and other multimodal transportation capacity requirements necessary to achieve the following goals with respect to strategic ports:

- (1) Provide greater access to port facilities.
- (2) Reduce congestion.
- (3) Improve the movement of goods.
- (4) Increase productivity.
- (5) Enhance maritime security.

(b) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under subsection (a), with such recommendations as the Secretary considers necessary to achieve the goals listed in that subsection.

(c) **STRATEGIC PORT DEFINED.**—In this section, the term “strategic port” means a United States port designated by the Secretary and the Secretary of Defense as a significant transportation hub important to the readiness and cargo throughput capacity of the Department of Defense.

## TITLE XI—REAUTHORIZATION AND AMENDMENTS TO THE SPORT FISH RESTORATION AND BOATING TRUST FUND

### SEC. 11001. SHORT TITLE.

This title may be cited as the “Sportfishing and Recreational Boating Safety Act of 2012”.

**SEC. 11002. REAUTHORIZATION AND AMENDMENTS TO THE SPORT FISH RESTORATION AND BOATING TRUST FUND.**

(a) **DINGELL-JOHNSON SPORT FISH RESTORATION ACT.**—Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a) in the matter preceding paragraph (1), by striking “For each of” and all that follows through “the balance of each annual” and inserting “For each fiscal year through fiscal year 2016, the balance of each annual”;

(2) in subsection (b)(1)(A), by striking “From the annual” and all that follows through “the Secretary” and inserting “From the annual appropriation made in accordance with section 3 for each fiscal year through fiscal year 2016, the Secretary”; and

(3) by striking subsection (b)(1)(B) and inserting the following:

“(B) **AVAILABLE AMOUNTS.**—The available amount referred to in subparagraph (A) is, for each fiscal year, the sum of—

“(i) the available amount for the preceding fiscal year; and

“(ii) the amount determined by multiplying—

“(I) the available amount for the preceding fiscal year; and

“(II) the change, relative to the preceding fiscal year, in the Consumer Price Index for All Urban Consumers published by the Department of Labor.”.

(b) **EXTENSION OF EXPENDITURE AUTHORITY FROM THE SPORT FISH RESTORATION AND BOATING TRUST FUND.**—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) in subsection (b)(2), by striking “(as in effect on” each place it appears and all that follows through the next closed parenthesis and inserting “(as in effect on the date of enactment of the Sportfishing and Recreational Boating Safety Act of 2012)”, and

(2) in subsection (d)(2), by striking “before” and all that follows through “in accordance” and inserting “before October 1, 2016, in accordance”.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—Chapter 131 of title 46, United States Code, is amended—

(1) in section 13107(a)(2), by striking “two” and inserting “1.5”; and

(2) in section 13107(c), by striking so much as precedes paragraph (2) and inserting the following:

“(c)(1) Of the amount transferred to the Secretary under section 4(a)(2) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2))—

“(A) \$6,000,000 is available to the Secretary for the payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which not less than \$2,000,000 shall be available to the Secretary only to ensure compliance with chapter 43 of this title; and

“(B) \$100,000 is available to fund the activities of the National Boating Safety Advisory Council established under this chapter.”.

## **TITLE XII—EXTENSION OF SURFACE TRANSPORTATION PROGRAMS**

**SEC. 12001. SHORT TITLE; EFFECTIVE DATE.**

(a) **SHORT TITLE.**—This title may be cited as the “Surface Transportation Extension Act of 2012”.

(b) **EFFECTIVE DATE.**—The amendments made by this title take effect on April 1, 2012.

### **Subtitle A—Federal-Aid Highways**

**SEC. 12101. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.**

(a) **IN GENERAL.**—Section 111 of the Surface Transportation Extension Act of 2011, Part II (Public Law 112-30; 125 Stat. 343) is amended—

(1) by striking “the period beginning on October 1, 2011, and ending on March 31, 2012,” each place it appears and inserting “fiscal year 2012”;

(2) by striking “½ of” each place it appears; and

(3) in subsection (a) by striking “March 31, 2012” and inserting “September 30, 2012”.



(b) **USE OF FUNDS.**—Section 111(c) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 343) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A) by striking “, except that during such period” and all that follows before the period at the end; and

(B) in subparagraph (B)(ii) by striking “\$319,500,000” and inserting “\$639,000,000”; and

(2) by striking paragraph (4).

(c) **EXTENSION OF AUTHORIZATIONS UNDER TITLE V OF SAFETEA-LU.**—Section 111(e)(2) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 343) is amended by striking “the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “fiscal year 2012.”

(d) **ADMINISTRATIVE EXPENSES.**—Section 112(a) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 346) is amended by striking “\$196,427,625 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “\$392,855,250 for fiscal year 2012.”

## Subtitle B—Extension of Highway Safety Programs

### SEC. 12201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HIGHWAY SAFETY PROGRAMS.

(a) **CHAPTER 4 HIGHWAY SAFETY PROGRAMS.**—Section 2001(a)(1) of SAFETEA-LU (119 Stat. 1519) is amended by striking “\$235,000,000 for fiscal year 2009” and all that follows through the period at the end and inserting “and \$235,000,000 for each of fiscal years 2009 through 2012.”

(b) **HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.**—Section 2001(a)(2) of SAFETEA-LU (119 Stat. 1519) is amended by striking “\$108,244,000 for fiscal year 2011” and all that follows through the period at the end and inserting “and \$108,244,000 for each of fiscal years 2011 and 2012.”

(c) **OCCUPANT PROTECTION INCENTIVE GRANTS.**—Section 2001(a)(3) of SAFETEA-LU (119 Stat. 1519) is amended by striking “, \$25,000,000 for fiscal year 2006” and all that follows through the period at the end and inserting “and \$25,000,000 for each of fiscal years 2006 through 2012.”

(d) **SAFETY BELT PERFORMANCE GRANTS.**—Section 2001(a)(4) of SAFETEA-LU (119 Stat. 1519) is amended by striking “and \$24,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “and \$48,500,000 for fiscal year 2012.”

(e) **STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.**—Section 2001(a)(5) of SAFETEA-LU (119 Stat. 1519) is amended by striking “for fiscal year 2006” and all that follows through the period at the end and inserting “for each of fiscal years 2006 through 2012.”

(f) **ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.**—Section 2001(a)(6) of SAFETEA-LU (119 Stat. 1519) is amended by striking “\$139,000,000 for fiscal year 2009” and all that follows through the period at the end and inserting “and \$139,000,000 for each of fiscal years 2009 through 2012.”

(g) **NATIONAL DRIVER REGISTER.**—Section 2001(a)(7) of SAFETEA-LU (119 Stat. 1520) is amended by striking “and \$2,058,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “and \$4,000,000 for fiscal year 2012.”

(h) **HIGH VISIBILITY ENFORCEMENT PROGRAM.**—Section 2001(a)(8) of SAFETEA-LU (119 Stat. 1520) is amended by striking “for fiscal year 2006” and all that follows through the period at the end and inserting “for each of fiscal years 2006 through 2012.”

(i) **MOTORCYCLIST SAFETY.**—Section 2001(a)(9) of SAFETEA-LU (119 Stat. 1520) is amended by striking “\$7,000,000 for fiscal year 2009” and all that follows through the period at the end and inserting “and \$7,000,000 for each of fiscal years 2009 through 2012.”

(j) **CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.**—Section 2001(a)(10) of SAFETEA-LU (119 Stat. 1520) is amended by striking “\$7,000,000 for fiscal year 2009” and all that follows through the period at the end and inserting “and \$7,000,000 for each of fiscal years 2009 through 2012.”

(k) ADMINISTRATIVE EXPENSES.—Section 2001(a)(11) of SAFETEA-LU (119 Stat. 1520) is amended by striking “\$25,328,000 for fiscal year 2011” and all that follows through the period at the end and inserting “and \$25,328,000 for each of fiscal years 2011 and 2012.”

**SEC. 12202. EXTENSION OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAMS.**

(a) MOTOR CARRIER SAFETY GRANTS.—Section 31104(a)(8) of title 49, United States Code, is amended to read as follows:

“(8) \$212,000,000 for fiscal year 2012.”

(b) ADMINISTRATIVE EXPENSES.—Section 31104(i)(1)(H) of title 49, United States Code, is amended to read as follows:

“(H) \$244,144,000 for fiscal year 2012.”

(c) GRANT PROGRAMS.—Section 4101(c) of SAFETEA-LU (119 Stat. 1715) is amended—

(1) in paragraph (1) by striking “and \$15,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “and \$30,000,000 for fiscal year 2012.”;

(2) in paragraph (2) by striking “2011 and \$16,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “2012.”;

(3) in paragraph (3) by striking “2011 and \$2,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “2012.”;

(4) in paragraph (4) by striking “2011 and \$12,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “2012.”; and

(5) in paragraph (5) by striking “2011 and \$1,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “2012.”

(d) HIGH-PRIORITY ACTIVITIES.—Section 31104(k)(2) of title 49, United States Code, is amended by striking “2011 and \$7,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “2012.”

(e) NEW ENTRANT AUDITS.—Section 31144(g)(5)(B) of title 49, United States Code, is amended by striking “and up to \$14,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.”

(f) OUTREACH AND EDUCATION.—Section 4127(e) of SAFETEA-LU (119 Stat. 1741) is amended by striking “and 2011 (and \$500,000 to the Federal Motor Carrier Safety Administration, and \$1,500,000 to the National Highway Traffic Safety Administration, for the period beginning on October 1, 2011, and ending on March 31, 2012)” and inserting “2011, and 2012.”

(g) GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 4134(c) of SAFETEA-LU (119 Stat. 1744) is amended by striking “2011 and \$500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2012.”

(h) MOTOR CARRIER SAFETY ADVISORY COMMITTEE.—Section 4144(d) of SAFETEA-LU (119 Stat. 1748) is amended by striking “March 31, 2012” and inserting “September 30, 2012.”

(i) WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.—Section 4213(d) of SAFETEA-LU (49 U.S.C. 14710 note; 119 Stat. 1759) is amended by striking “March 31, 2012” and inserting “September 30, 2012.”

**SEC. 12203. ADDITIONAL PROGRAMS.**

(a) HAZARDOUS MATERIALS RESEARCH PROJECTS.—Section 7131(c) of SAFETEA-LU (119 Stat. 1910) is amended by striking “2011 and \$580,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2012.”

(b) DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a) by striking “2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2012.”; and

(2) in the first sentence of subsection (b)(1)(A) by striking “2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2012.”

## Subtitle C—Public Transportation Programs

### SEC. 12301. ALLOCATION OF FUNDS FOR PLANNING PROGRAMS.

Section 5305(g) of title 49, United States Code, is amended by striking “2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012” and inserting “2012”.

### SEC. 12302. SPECIAL RULE FOR URBANIZED AREA FORMULA GRANTS.

Section 5307(b)(2) of title 49, United States Code, is amended—

- (1) by striking the paragraph heading and inserting “SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2012.—”;
- (2) in subparagraph (A) by striking “2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2012,”; and
- (3) in subparagraph (E)—
  - (A) by striking the subparagraph heading and inserting “MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2012.—”;
  - (B) in the matter preceding clause (i) by striking “2011 and during the period beginning on October 1, 2011, and ending on March 31, 2012” and inserting “2012”.

### SEC. 12303. ALLOCATING AMOUNTS FOR CAPITAL INVESTMENT GRANTS.

Section 5309(m) of title 49, United States Code, is amended—

- (1) in paragraph (2)—
  - (A) by striking the paragraph heading and inserting “FISCAL YEARS 2006 THROUGH 2012.—”;
  - (B) in the matter preceding subparagraph (A) by striking “2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2012”; and
  - (C) in subparagraph (A)(i) by striking “2011 and \$100,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2012”;
- (2) in paragraph (6)—
  - (A) in subparagraph (B) by striking “2011 and \$7,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2012”; and
  - (B) in subparagraph (C) by striking “2011 and \$2,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2012”; and
- (3) in paragraph (7)—
  - (A) in subparagraph (A)—
    - (i) in the matter preceding clause (i)—
      - (I) in the first sentence by striking “2011 and \$5,000,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2012”; and
      - (II) in the second sentence by inserting “each fiscal year” before the colon;
    - (ii) in clause (i) by striking “for each fiscal year and \$1,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.”;
    - (iii) in clause (ii) by striking “for each fiscal year and \$1,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.”;
    - (iv) in clause (iii) by striking “for each fiscal year and \$500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.”;
    - (v) in clause (iv) by striking “for each fiscal year and \$500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.”;
    - (vi) in clause (v) by striking “for each fiscal year and \$500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.”;
    - (vii) in clause (vi) by striking “for each fiscal year and \$500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.”;
    - (viii) in clause (vii) by striking “for each fiscal year and \$325,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.”; and

(ix) in clause (viii) by striking "for each fiscal year and \$175,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,"

(B) in subparagraph (B) by striking clause (vii) and inserting the following:

"(vii) \$13,500,000 for fiscal year 2012,"

(C) in subparagraph (C) by striking "and during the period beginning on October 1, 2011, and ending on March 31, 2012,"

(D) in subparagraph (D) by striking "and not less than \$17,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012," and

(E) in subparagraph (E) by striking "and \$1,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012."

**SEC. 12304. APPORTIONMENT OF FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.**

Section 5311(c)(1)(G) of title 49, United States Code, is amended to read as follows:

"(G) \$15,000,000 for fiscal year 2012."

**SEC. 12305. APPORTIONMENT BASED ON FIXED GUIDEWAY FACTORS.**

Section 5337 of title 49, United States Code, is amended by striking subsection (g).

**SEC. 12306. AUTHORIZATIONS FOR PUBLIC TRANSPORTATION.**

(a) **FORMULA AND BUS GRANTS.**—Section 5338(b) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking subparagraph (G) and inserting the following:

"(G) \$8,360,565,000 for fiscal year 2012," and

(2) in paragraph (2)—

(A) in subparagraph (A) by striking "\$113,500,000 for each of fiscal years 2009 and 2010, \$113,500,000 for fiscal year 2011, and \$56,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and \$113,500,000 for each of fiscal years 2009 through 2012";

(B) in subparagraph (B) by striking "\$4,160,365,000 for each of fiscal years 2009 and 2010, \$4,160,365,000 for fiscal year 2011, and \$2,080,182,500 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and \$4,160,365,000 for each of fiscal years 2009 through 2012";

(C) in subparagraph (C) by striking "\$51,500,000 for each of fiscal years 2009 and 2010, \$51,500,000 for fiscal year 2011, and \$25,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and \$51,500,000 for each of fiscal years 2009 through 2012";

(D) in subparagraph (D) by striking "\$1,666,500,000 for each of fiscal years 2009 and 2010, \$1,666,500,000 for fiscal year 2011, and \$833,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and \$1,666,500,000 for each of fiscal years 2009 through 2012";

(E) in subparagraph (E) by striking "\$984,000,000 for each of fiscal years 2009 and 2010, \$984,000,000 for fiscal year 2011, and \$492,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and \$984,000,000 for each of fiscal years 2009 through 2012";

(F) in subparagraph (F) by striking "\$133,500,000 for each of fiscal years 2009 and 2010, \$133,500,000 for fiscal year 2011, and \$66,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and \$133,500,000 for each of fiscal years 2009 through 2012";

(G) in subparagraph (G) by striking "\$465,000,000 for each of fiscal years 2009 and 2010, \$465,000,000 for fiscal year 2011, and \$232,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and \$465,000,000 for each of fiscal years 2009 through 2012";

(H) in subparagraph (H) by striking "\$164,500,000 for each of fiscal years 2009 and 2010, \$164,500,000 for fiscal year 2011, and \$82,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and \$164,500,000 for each of fiscal years 2009 through 2012";

(I) in subparagraph (I) by striking "\$92,500,000 for each of fiscal years 2009 and 2010, \$92,500,000 for fiscal year 2011, and \$46,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and \$92,500,000 for each of fiscal years 2009 through 2012";

(J) in subparagraph (J) by striking "\$26,900,000 for each of fiscal years 2009 and 2010, \$26,900,000 for fiscal year 2011, and \$13,450,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and \$26,900,000 for each of fiscal years 2009 through 2012";

(K) in subparagraph (K) by striking "in fiscal year 2006" and all that follows through "March 31, 2012," and inserting "for each of fiscal years 2006 through 2012";

(L) in subparagraph (L) by striking "in fiscal year 2006" and all that follows through "March 31, 2012," and inserting "for each of fiscal years 2006 through 2012";

(M) in subparagraph (M) by striking "\$465,000,000 for each of fiscal years 2009 and 2010, \$465,000,000 for fiscal year 2011, and \$232,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and \$465,000,000 for each of fiscal years 2009 through 2012"; and

(N) in subparagraph (N) by striking "\$8,800,000 for each of fiscal years 2009 and 2010, \$8,800,000 for fiscal year 2011, and \$4,400,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and \$8,800,000 for each of fiscal years 2009 through 2012".

(b) CAPITAL INVESTMENT GRANTS.—Section 5338(c)(7) of title 49, United States Code, is amended to read as follows:

"(7) \$1,600,000,000 for fiscal year 2012."

(c) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—Section 5338(d) of title 49, United States Code, is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking "and 2010, \$69,750,000 for fiscal year 2011, and \$29,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "through 2011 and \$44,000,000 for fiscal year 2012"; and

(2) by striking paragraph (3) and inserting the following:

"(3) ADDITIONAL AUTHORIZATIONS.—

"(A) RESEARCH.—Of amounts authorized to be appropriated under paragraph (1) for fiscal year 2012, the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such subparagraph.

"(B) UNIVERSITY CENTERS PROGRAM.—

"(i) FISCAL YEAR 2012.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for fiscal year 2012, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such clause.

"(ii) FUNDING.—If the Secretary determines that a project or activity described in paragraph (2) received sufficient funds in fiscal year 2011, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under clause (i) for the project or activity for fiscal year 2012 or any subsequent fiscal year."

(d) ADMINISTRATION.—Section 5338(e)(7) of title 49, United States Code, is amended to read as follows:

"(7) \$98,713,000 for fiscal year 2012."

#### SEC. 12307. AMENDMENTS TO SAFETEA-LU.

(a) CONTRACTED PARATRANSIT PILOT.—Section 3009(i)(1) of SAFETEA-LU (119 Stat. 1572) is amended by striking "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012,"

(b) PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.—Section 3011 of SAFETEA-LU (49 U.S.C. 5309 note; 119 Stat. 1588) is amended—

(1) in subsection (c)(5) by striking "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012" and inserting "2012"; and

(2) in the second sentence of subsection (d) by striking "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012".

(c) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—Section 3012(b)(8) of SAFETEA-LU (49 U.S.C. 5310 note; 119 Stat. 1593) is amended by striking "March 31, 2012" and inserting "September 30, 2012".

(d) OBLIGATION CEILING.—Section 3040(8) of SAFETEA-LU (119 Stat. 1639) is amended to read as follows:

“(8) \$10,458,278,000 for fiscal year 2012, of which not more than \$8,360,565,000 shall be from the Mass Transit Account.”.

(e) PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.—Section 3043 of SAFETEA-LU (119 Stat. 1640) is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by striking “2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2012”; and

(2) in subsection (c), in the matter preceding paragraph (1), by striking “2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2012”.

(f) ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA-LU (49 U.S.C. 5338 note; 119 Stat. 1706) is amended—

(1) in subsection (b) by striking “fiscal year or period” and inserting “fiscal year”; and

(2) by striking subsection (c)(2) and inserting the following:

“(2) for fiscal year 2012, in amounts equal to 63 percent of the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), and (8) through (25) of subsection (a).”.

## **TITLE XIII—ADDITIONAL TRANSPORTATION PROVISIONS**

### **SEC. 13001. AUDIT OF UNION STATION REDEVELOPMENT CORPORATION.**

The Inspector General of the Department of Transportation, or an auditor determined by the Inspector General to meet the independence standards specified in the Government Auditing Standards issued by the Comptroller General of the United States, shall once every 2 years conduct an audit of the accounts and operations of the Union Station Redevelopment Corporation. The audit of financial statements shall be conducted in accordance with generally accepted auditing standards and, to the extent determined applicable by the Inspector General, the Government Auditing Standards.

### **SEC. 13002. PROHIBITION ON USE OF FUNDS.**

None of the funds appropriated or otherwise made available under this Act, or the amendments made by this Act, may be used for physical signage indicating that a project is funded under this Act.

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## PURPOSE OF THE LEGISLATION AND SUMMARY

The purpose of this bill is to provide a long-term reauthorization of federal highway, transit and highway safety programs that will streamline and consolidate federal transportation programs, cut red tape and government bureaucracy, increase funding flexibility for states and local governments, better leverage existing infrastructure resources, and encourage more private sector participation in building infrastructure. The bill also makes significant reforms to other transportation programs, including federal passenger and freight rail transportation, and hazardous materials transportation.

## BACKGROUND AND NEED FOR LEGISLATION

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was enacted in August of 2005 and reauthorized federal surface transportation programs through September 30, 2009.

On September 30, 2009, SAFETEA-LU expired. Since that time, eight extensions of SAFETEA-LU have been enacted to continue funding authority under SAFETEA-LU program structures. The latest extension, the Surface Transportation Extension Act of 2011, Part II (Title I of P.L. 112-30), will expire on March 31, 2012.

Enactment of H.R. 7, the American Energy and Infrastructure Jobs Act of 2012, will reauthorize federal highway, transit, and highway safety programs through fiscal year (FY) 2016, providing the long-term stability that is needed in order for states to plan major transportation infrastructure projects and provide lasting employment.

## PROGRAM REFORM AND REDUCING THE SIZE OF GOVERNMENT

Currently, there are over 100 federal surface transportation programs, many of which were created over the last 50 years to address narrow interests beyond the original programmatic goals. Many of these programs are duplicative or do not serve a national interest; they simply add to the massive federal bureaucracy. Dollars that could be directed to infrastructure are instead diverted to the continued administration of these programs.

The American Energy and Infrastructure Jobs Act reforms surface transportation programs by consolidating or eliminating approximately 70 programs that are duplicative or do not serve a federal purpose. This proposal identifies programs that serve similar purposes, such as the Indian Reservation Roads Program and the Transit on Indian Reservations Program, and consolidates them into a Tribal Transportation Program. The proposal also identifies programs that do not serve a federal interest, such as the National Historic Covered Bridge Preservation Program and the Nonmotorized Transportation Pilot Program, and eliminates them.

Furthermore, states will no longer be required to spend highway funding on non-highway activities. States will be permitted to fund such activities if they choose, but they will be provided the flexibility to identify and address their most critical infrastructure needs. However, this additional flexibility will not be unchecked. States will be held accountable for their spending decisions through new performance measures and transparency requirements.

The Highway Trust Fund was created in the 1950s to construct the Interstate Highway System. In the years since, numerous new programs have been created and the focus of our federal transportation programs has expanded well beyond their original intent and goals. This legislation refocuses the Highway Trust Fund on programs and projects that have regional and national impacts and eliminates programs that do not.

Reforming programs and reducing the federal bureaucracy under the American Energy and Infrastructure Jobs Act will ensure a more streamlined federal government and the more effective investment of resources.

#### STREAMLINING PROJECT DELIVERY AND CUTTING RED TAPE

Government bureaucracy and red tape in the approval and permitting process create needless infrastructure project delays and cost increases. According to the Federal Highway Administration, highway projects can take up to 15 years to complete. While state and local governments deal with the seemingly endless review process, transportation capacity and safety improvements stall, construction costs escalate, and job creation is put on hold.

For example, after a series of fatal accidents on a roadway in Toulumne County, California, a project was proposed to widen the roadway by no more than two feet in any location, construct 2,000 feet of new guardrail, replace two culvert pipes, and resurface the road. This project took over seven years just to complete the environmental reviews and permit approvals. Unfortunately, during that seven year period there were additional serious accidents on the roadway that could have been avoided.



Project reviews are necessary to help protect the environment, but a more reasonable process is essential to using our resources more effectively. It can be done. When a design flaw caused the collapse of the I-35W bridge in Minnesota in 2007, the replacement was contracted to be completed in just 437 days and was completed significantly ahead of schedule using innovative contracting methods and a streamlined environmental review process.

The American Energy and Infrastructure Jobs Act streamlines and condenses the project review process by cutting bureaucratic red tape, allowing federal agencies to review transportation projects concurrently, setting hard deadlines for federal agencies to approve projects, and delegating more decision making authority to states.

The legislation makes environmental reviews more efficient by: (1) condensing the final environmental impact statement and combining it with the record of decision; (2) providing a single system to review decisions, requiring concurrent reviews, and setting deadlines for approvals; and (3) classifying projects in the right-of-way as categorical exclusions under the National Environmental Policy Act (NEPA).

H.R. 7 clarifies eligibility for pre-construction activities by: (1) allowing for acquisition of land during the NEPA process if the transaction itself does not cause a change in the area's land use or adverse environmental effects; (2) encouraging corridor preservation to reduce project costs, delays, and impacts on communities; and (3) allowing detailed design work prior to completion of the NEPA process at state expense, making such work eligible for federal reimbursement only if the project is subsequently approved.

The bill also promotes integrated planning and programmatic approaches by: (1) building on the efforts in section 6001 of SAFETEA-LU and allowing environmental decisions made in the planning process to be carried forward into the NEPA process; and (2) clarifying authority for programmatic approaches, rather than project-by-project reviews.

By cutting the project review process time in half, the legislation ensures environmental protections remain in place while investing infrastructure resources in a much more effective manner.

#### INCREASING PRIVATE SECTOR PARTICIPATION AND MAXIMIZING EXISTING REVENUE

The American Energy and Infrastructure Jobs Act maximizes the buying power of infrastructure resources in a number of ways, including better leveraging existing federal funds and adopting policies that will attract private sector investment.

Private sector interest in building infrastructure is considerable, and encouraging the private sector to responsibly partner with federal and state governments can significantly enhance the amount of available federal revenue. While public-private partnerships cannot address all of our infrastructure needs, significant changes in existing programs and policy will attract private sector investment.

The American Energy and Infrastructure Jobs Act builds upon and improves the successful Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program. The measure dedicates \$1 billion per year to the TIFIA program resulting in \$10 billion in low interest loans to fund at least \$20 billion per year in transportation projects. Providing additional funding for TIFIA will help meet demand for credit assistance for transportation projects and enable increased leveraging of Highway Trust Fund dollars with state, local and private-sector funding.

The legislation does not create a new National Infrastructure Bank, but rather builds upon existing state infrastructure banks. States will be encouraged to create and capitalize state infrastructure banks to provide loans for transportation projects at the state and local level. The percentage of federal highway funding that a state can dedicate to a state infrastructure bank will be increased from 10 percent to 15 percent and states will receive a specific amount of funding that can only be used to fund state infrastructure banks.

H.R. 7 also calls for unlocking existing revenue sources that are not being fully utilized for their intended purpose. Under this initiative, existing lanes on the Interstate Highway System remain toll-free; however, states will have the ability to toll new capacity on the Interstate System. States will also have greater flexibility to toll non-Interstate highways.

The Harbor Maintenance Trust Fund is supported by cargo fees and is critical for dredging and other improvements to federal harbor channels. Despite growing maritime infrastructure needs, these funds are not being fully utilized to maintain our ports. H.R. 7 encourages using all the amounts collected each year in the Harbor Maintenance Trust Fund for their intended purpose of maintaining safe and adequate harbor channels for the Nation's waterborne transportation system.

H.R. 7 improves the underutilized Rail Rehabilitation and Improvement Financing (RRIF) Program by creating a faster and more predictable application process and allowing more flexibility in loan terms. While RRIF was created to allow for loans and loan guarantees to help improve the nation's rail infrastructure, the slow process for approval and constricting terms have stunted its potential. H.R. 7 ensures the program is able to help address the nation's growing rail infrastructure needs at a time when the economy is continuing its recovery.

The American Energy and Infrastructure Jobs Act will allow federal dollars to work more effectively and generate additional revenue for infrastructure improvements and job creation. By more effectively leveraging available resources, we can achieve more infrastructure and employment benefits per dollar invested.

#### FEDERAL HIGHWAY PROGRAM

Fifty years ago the goal of the Federal Highway Program was to fund road construction projects that facilitated interstate travel and interstate commerce. After the Interstate Highway System was largely completed, the Federal Highway Program began to fund a broader range of projects. Today there are more than 50 programs run by the Federal Highway Administration that fund projects ranging from graffiti removal to planting of wildflowers.

The American Energy and Infrastructure Jobs Act eliminates approximately 40 Federal Highway Administration programs and focuses our limited federal resources on projects that have regional or national significance. Federal approvals and processes are streamlined to ensure projects are expedited, and administrative overhead can be reduced through programmatic reform, increasing the amount of funding available for projects.

#### *State Flexibility and Accountability*

Under the legislation, states maintain the opportunity to fund the broad range of eligible projects under the current Surface Transportation and Congestion Mitigation and Air Quality programs, but they are not required to spend a specific amount of funding on specific types of projects, such as transportation museums or landscaping. More than 90 percent of Federal Highway Program funding will be distributed through formula programs to state departments of transportation, allowing state and local transportation officials to prioritize projects rather than bureaucrats in Washington D.C. States are provided the maximum amount of flexibility in choosing what projects to fund with their federal highway dollars, but will be held accountable for those choices through performance measures and transparency requirements.

#### *A Focus on the National Highway System*

The new Federal Highway Program focuses primarily on the National Highway System – a 160,000 mile system of roads that includes the Interstate Highway System and other roads important to the nation's economy, defense and freight mobility. Under H.R. 7, approximately half of the funding provided for the Federal Highway Program is directed to funding projects on the National Highway System.

#### *Highway Safety*

The legislation doubles the amount of funding dedicated to the Highway Safety Improvement Program. This program funds road infrastructure projects designed to improve safety and can fund projects on virtually any road.

#### *Improved Leveraging of Resources*

The bill better leverages our limited federal resources, including through the TIFIA program and the existing state infrastructure bank structure. This approach keeps the federal financing bureaucracy at a minimum and maximizes states' financial capabilities.

### HIGHWAY AND MOTOR CARRIER SAFETY

Recent years have seen a steady decline in highway fatalities, from 43,510 in 2005 to 32,885 in 2010. There has also been a dramatic reduction in severe and fatal crashes involving large trucks and buses, with fatalities from crashes dropping from 5,539 in 2005 to 3,944 in 2010.

The American Energy and Infrastructure Jobs Act builds upon the progress made in recent years and ensures continued safety improvements by incorporating performance measures into each state's highway safety plan. Under the bill, each state is required to establish quantifiable targets for each performance measure. This will help states target the most effective highway and motor carrier safety activities and hold states accountable for how they spend their federal funding.

#### *National Highway Traffic Safety Administration (NHTSA) Safety Programs*

H.R. 7 focuses funding on NHTSA's highway safety grant program that distributes money to states through a formula for highway safety activities. It clarifies that states can use highway safety grant funding for initiatives to increase seat belt use, prevent impaired driving, and improve motorcycle safety. In addition, the bill changes the distribution formula for NHTSA's highway safety grant program so states that have laws and programs designed to increase seat belt use, prevent impaired driving, or improve the safety of young drivers receive more funding. Finally, the bill holds states accountable by requiring them to spend federal funding in areas where they are not meeting performance goals.

#### *Motor Carrier Safety Programs*

H.R. 7 ensures that federal regulations keep unsafe trucks and buses off the road while allowing companies that operate in a safe and responsible manner to continue to do so. Specifically, the bill prevents companies that have been shut down for violating safety standards from reincarnating as new carriers to avoid compliance. It consolidates grant programs and institutes new performance measures to focus state motor carrier safety efforts on reducing the number of crashes and fatalities involving large trucks and buses. It establishes annual inspection programs for buses. The bill also requires the Secretary to establish a clearinghouse of positive drug and alcohol test results by commercial drivers, and prescribe regulations to establish minimum training requirements for commercial drivers.

### FEDERAL TRANSIT PROGRAMS

The American Energy and Infrastructure Jobs Act focuses on federal transit policies and programs that most effectively contribute to public transportation services that meet the needs of commuters, transit-dependent individuals, and occasional transit riders.

#### *Private Sector Partnering*

H.R. 7 removes current barriers that prevent the private sector from offering public transportation services. It provides incentives to vanpools and intercity bus operators to participate in federally supported transit services; requires that private intercity and charter bus operators be given reasonable access to federally-funded transit facilities; and encourages and rewards public-private partnerships when building new rail transit systems.

#### *Focuses on Formula Programs*

The bill repeals discretionary programs that are unpredictable and not transparent, and focuses available funding on formula programs that provide stable and predictable funding to states and local transit agencies. In addition, it increases the percentage of available formula funds for transit programs that benefit suburban and rural areas, and programs that support transit services for the elderly, disabled, and transit-dependent.

### *Streamlines and Simplifies*

Under H.R. 7, three separate human service transportation programs are consolidated into one. In addition, the bill streamlines the New Starts and Small Starts competitive grant program, cutting project development time in half.

### *Improves Transit Safety*

The legislation strengthens the rail transit safety oversight program without creating a new federal transit safety bureaucracy.

## PASSENGER AND FREIGHT RAIL TRANSPORTATION

Government can do more to effectively leverage federal investments in freight and passenger rail infrastructure. The American Energy and Infrastructure Jobs Act streamlines the project delivery process, reduces regulatory burdens, and promotes accountability and responsibility while maintaining the highest commitment to rail safety.

### *Leveraging Federal Investments*

H.R. 7 creates a faster and more predictable application process for Rail Rehabilitation and Improvement Financing (RRIF) loans. In addition, it increases access to the RRIF program by providing more flexible loan terms.

### *Streamlining Project Delivery*

The legislation expedites project review, which reduces costs to project sponsors. Specifically, it increases coordination among federal agencies and allows for review of projects concurrently; creates greater certainty by establishing hard deadlines for agency action and decisions; delegates more decision-making authority to the states; and expands classes of projects excluded from extensive environmental review.

### *Reducing Regulatory Burdens*

The bill increases the opportunity for the successful implementation for Positive Train Control (PTC) by changing the implementation deadline and allowing for technology neutral solutions, while maintaining our commitment to safety. It also improves the rulemaking process at the Federal Railroad Administration to protect against overly-burdensome regulations and red tape.

### *Reforming Amtrak*

H.R. 7 places limits on Amtrak's use of federal funds to focus it on providing better service. It cuts Amtrak's operating subsidy by 25 percent in FY 2012 and 2013. In addition, the bill clarifies the Amtrak Inspector General's authority to protect federal funds against fraud, waste, and abuse. Finally, it requires Amtrak's money-losing, poorly managed food and beverage services to be competitively bid.

### *Promoting Accountability and Saving Money*

The legislation eliminates the congestion grants set-aside program in the Intercity Passenger Rail grants program, currently authorized at \$100 million per year in FY 2012 and 2013. It also terminates the Capital Grants program for Class II and Class III Railroads, authorized at \$50 million per year.

## HAZARDOUS MATERIALS TRANSPORTATION

The American Energy and Infrastructure Jobs Act advances safety, efficiency, and accountability in the transportation of hazardous materials and promotes the nation's economic health through certainty and uniformity in the regulation of those materials.

### *Promotes Regulatory Certainty and Transparency*

H.R. 7 reforms the rulemaking process to be less burdensome on industry and ensure that economic effects are properly taken into account. The bill establishes regulatory certainty through notice and comment rulemaking. It promotes efficiency by incorporating safe special permits into regulations. Finally, it requires a program review to improve the administration of motor carrier permitting.

### *Creates Uniformity to Grow Business and the Economy*

The legislation eliminates differing state requirements for notification, enforcement, and permitting that hinder the free-flow of commerce and do not increase safety levels. The bill also establishes uniform training and enforcement among the states; ensures the nation's expert on hazardous materials transportation remains its international representative; eliminates overlapping federal jurisdiction; and protects economic growth by preempting unreasonable burdens on commerce.

### *Reduces Regulatory Burdens*

The bill bans certain regulations whose cost-effectiveness is unproven. It ensures that no new user fees will be imposed on the industry, and that penalties are fairly imposed on those entities responsible for violations. It also eliminates unnecessary package inspections that burden commerce.

### *Promotes Accountability and Saves Money*

H.R. 7 allows flexibility and requires accountability in managing hazardous materials transportation grant programs. In addition, it eliminates wasteful earmarks.

#### WATERBORNE TRANSPORTATION

Waterborne trade at our nation's ports is vital to the American economy, and millions of jobs throughout the country are dependent upon the commercial shipping industry. The American Energy and Infrastructure Jobs Act encourages funds collected for the maintenance of our nation's harbors to be invested for that purpose.

#### *Calls for Dedicated Funds to Go to Infrastructure Programs*

The Harbor Maintenance Trust Fund (HMTF) provides funds for the United States Army Corps of Engineers (Corps) to carry out the dredging of navigation channels to their authorized depths and widths. The HMTF is based upon a user fee collected from shippers that utilize the nation's coastal ports. Unfortunately, we do not invest all of these fees back into harbor maintenance. The FY 2011 HMTF equity grew 13.7% from FY 2010 to \$6.42 billion. Total receipts increased 17.3% to \$1.6 billion. Yet, only \$791.4 million was expended by the Corps, a decrease from FY 2010's \$793 million. This legislation calls for HMTF expenditures to be tied to revenues and spent for harbor maintenance as intended.

#### LEGISLATIVE HISTORY

On January 31, 2012, Chairman John L. Mica and Subcommittee Chairman John J. Duncan, Jr. introduced H.R. 7, the American Energy and Infrastructure Jobs Act of 2012. On February 2, 2012, the Committee on Transportation and Infrastructure met in open session to consider the bill. During the Committee's consideration of the bill the following actions were taken:

#### *The following motion was defeated by recorded vote:*

A motion offered by Mr. Rahall to table the bill.

#### *The following amendments were approved by recorded vote:*

An amendment offered by Mr. Mica designated 088 was approved by recorded vote, after being amended by voice vote by an amendment offered by Mr. Defazio to strike a provision requiring a public referendum be held to approve the financing mechanism for certain transit new start projects;

An amendment offered by Mr. Barletta designated 024; and

An amendment offered by Mr. Denham designated 041.

#### *The following amendments were approved by voice vote:*

An amendment offered by Mr. Graves designated 057;

An amendment offered by Ms. Richardson designated 091;

An amendment offered by Ms. Brown (for Mr. Sires) designated Sires Amendment 014;

An amendment offered by Mr. Cohen designated 071;

An amendment offered by Mr. Cravaack designated 033;  
An amendment offered by Mr. Shuler designated 005;  
An amendment offered by Mr. Rahall designated 032;  
An amendment offered by Mr. Bucshon designated 009;  
An amendment offered by Mr. Cravaack designated 034;  
An amendment offered by Mr. Boswell designated 027;  
An amendment offered by Mr. Carnahan designated 054;  
An amendment offered by Mr. Landry designated 063;  
An amendment offered by Ms. Richardson designated 085;  
An amendment offered by Mr. Defazio designated 065;  
An amendment offered by Mr. Defazio (modified) designated 067;  
An amendment offered by Ms. Brown designated 029 was approved by voice vote, after being amended by an amendment offered by Mr. Mica regarding compliance with court orders, which was also approved by voice vote; and  
An amendment offered by Mr. Carnahan designated 058 was approved by voice vote, after being amended by an amendment offered by Mr. Mica designated 087, which was also approved by voice vote.

*The following amendments were approved en bloc by unanimous consent:*

An amendment by Ms. Richardson designated 086;  
An amendment by Mr. Carnahan designated 052;  
An amendment by Mr. Cohen designated 072;  
An amendment by Mr. Lipinski designated 049; and  
An amendment by Mr. Capuano designated 029.

*The following amendments were approved en bloc by unanimous consent:*

An amendment by Mr. Lipinski designated 046;  
An amendment by Mr. Altmire designated 011; and  
An amendment by Ms. Norton designated 105.

*The following amendments were defeated by recorded vote:*

An amendment offered by Mr. Cummings, Ms. Johnson, Ms. Brown, Ms. Norton, and Ms. Edwards designated 042;  
An amendment offered by Mr. Petri, Mr. T. Johnson, and Mr. Lipinski designated 019;  
An amendment offered by Mr. Rahall designated 031;  
An amendment offered by Mr. Defazio designated 064;  
An amendment offered by Mr. Capuano and Mr. Nadler designated 025;  
An amendment offered by Mr. Carnahan designated 051;  
An amendment offered by Ms. Napolitano designated 010;  
An amendment offered by Ms. Brown designated 021;  
An amendment offered by Ms. Edwards designated 018;  
An amendment offered by Mr. Carnahan designated 060;  
An amendment offered by Mr. Nadler designated 106; and  
An amendment offered by Mr. Farenthold designated 014.

*The following amendments were defeated by voice vote:*



An amendment offered by Mr. Capuano designated 028;  
 An amendment offered by Ms. Edwards designated 021;  
 An amendment offered by Ms. Richardson amending section 1108;  
 An amendment offered by Ms. Richardson designated 087;  
 An amendment offered by Mr. Cohen (for Mr. Sires) designated as Sires Amendment 012;  
 An amendment to the Cravaack Amendment 034 offered by Mr. Rahall regarding Federal-aid Highways Buy America provisions;  
 An amendment offered by Ms. Norton designated 103;  
 An amendment offered by Mr. Cummings designated 046;  
 An amendment offered by Ms. Richardson regarding the prevention of unreasonable fees;  
 An amendment offered by Ms. Richardson designated 095;  
 An amendment offered by Mr. Carnahan designated 055;  
 An amendment offered by Mr. G. Miller designated 031;  
 An amendment offered by Mr. Lipinski designated 052;  
 An amendment offered by Mr. Nadler designated 094;  
 An amendment offered by Ms. Edwards designated 004;  
 An amendment offered by Mr. Cohen designated 074;  
 An amendment offered by Mr. Crawford regarding the transportation of horses;  
 An amendment offered by Ms. Brown designated 017;  
 An amendment offered by Mr. Nadler designated 097;  
 An amendment offered by Ms. Napolitano (modified) regarding Harbor Maintenance Trust Fund expenditures;  
 An amendment offered by Mr. Nadler designated 093;  
 An amendment offered by Ms. Richardson regarding the Harbor Maintenance Trust Fund;  
 An amendment offered by Ms. Richardson designated 094;  
 An amendment offered by Ms. Hirono designated 052;  
 An amendment offered by Ms. Hirono designated 050;  
 An amendment offered by Ms. Hirono designated 051;  
 An amendment offered by Ms. Richardson designated 098;  
 An amendment offered by Mr. Carnahan designated 057;  
 An amendment offered by Ms. Edwards designated 022; and  
 An amendment to the Edwards Amendment 022 offered by Ms. Johnson to strike "shall" and insert "may".

*The following amendments were offered en bloc and defeated by voice vote:*

An amendment by Mr. Bishop designated 005;  
 An amendment by Mr. Bishop designated 006; and  
 An amendment by Mr. Bishop designated 007.

*The following amendments were offered en bloc and defeated by unanimous consent:*

An amendment by Ms. Brown designated 026; and  
 An amendment by Ms. Brown designated 031.

*The following amendments were withdrawn:*

An amendment by Ms. Richardson designated 093;  
An amendment by Mr. Lipinski designated 050;  
An amendment by Mr. Farenthold designated 014;  
An amendment by Ms. Edwards designated 019;  
An amendment by Ms. Edwards designated 020;  
An amendment by Ms. Edwards designated 003;  
An amendment by Ms. Richardson regarding streamlining environmental reviews;  
An amendment by Mr. Capuano designated 024;  
An amendment by Mr. Defazio designated 066;  
An amendment by Mr. Lipinski designated 051;  
An amendment by Ms. Brown designated 028;  
An amendment by Mr. Bishop designated 075;  
An amendment by Mr. Cohen, Ms. Edwards, and Ms. Richardson designated 070;  
An amendment by Mr. Carnahan designated 056;  
An amendment by Mr. Bishop designated 076;  
An amendment by Mr. Bishop designated 070;  
An amendment by Mr. Nadler designated 102;  
An amendment by Ms. Johnson designated 048;  
An amendment by Mr. Defazio designated 059;  
An amendment by Mr. Defazio designated 069;  
An amendment by Mr. Boswell designated 028; and  
An amendment by Mr. Boswell designated 878.

*The following amendments were not offered:*

An amendment by Ms. Richardson designated 096.

#### HEARINGS

The Committee on Transportation and Infrastructure held five field hearings on surface transportation reauthorization as follows: (1) on February 14, 2011, in Beckley, WV; (2) on February 19, 2011, in Columbus, OH; (3) on February 23, 2011, in Los Angeles, CA; (4) on February 24, 2011, in Oklahoma City, OK; and (5) on March 14, 2011, in Maitland, FL. In addition, the Full Committee held a legislative hearing on motorcoach safety on June 13, 2011.

In addition to the listed hearings and in order to gather specific policy proposals for reauthorization of the federal surface transportation programs, the Committee, pursuant to the belief that the best ideas come from outside of Washington, D.C., and that state and local governments know their needs best, held multiple listening sessions across the country as follows: (1) on February 14, 2011, in Charleston, WV; (2) on February 19, 2011, in Indianapolis, IN; (3) on February 20, 2011, in Dupage, IL; (4) on February 21, 2011, in Vancouver, WA; (5) on February 22, 2011, in Fresno, CA; (6) on February 24, 2011, in Jonesboro, AR; (7) on February 25, 2011, in Millington, TN; (8) on March 24, 2011, in Rochester, NY; (9) on March 24, 2011, in Cortland, NY; (10) on March 25, 2011, in Scranton, PA; and (11) on March 25, 2011, in King of Prussia, PA.

The Subcommittee on Highways and Transit held four legislative hearings as follows: (1) on February 15, 2011, a hearing was held to receive testimony related to improving the existing laws and regulations governing project delivery in order to accelerate the delivery process for surface transportation projects and save the American taxpayer money; (2) on March 29, 2011 and March 30, 2011, a two-day hearing was held to receive testimony from the surface transportation community regarding reauthorization issues; (3) on April 5, 2011, a hearing was held to receive testimony from Members of Congress regarding surface transportation reauthorization; and (4) on October 12, 2011, a hearing was held to examine the administration's infrastructure bank proposal.

The Subcommittee on Railroads, Pipelines, and Hazardous Materials held five legislative hearings as follows: (1) on February 17, 2011, a hearing was held to receive testimony on the Railroad Rehabilitation and Improvement Financing Program; (2) on March 11, 2011, a hearing was held to receive testimony regarding intercity passenger rail; (3) March 17, 2011, a hearing was held to receive testimony regarding implementation of the Rail Safety Improvement Act and Positive Train Control Systems; (4) on April 7, 2011, a hearing was held to receive testimony regarding reducing the regulatory burdens in railroad and hazardous materials transportation programs; (5) on April 12, 2011, a hearing was held to receive testimony regarding reauthorization of the hazardous materials transportation programs of the Pipeline and Hazardous Materials Safety Administration.

The Subcommittee on Water Resources and Environment held two legislative hearings as follows: (1) on July 8, 2011, a hearing was held to receive testimony on H.R. 104, the Realize America's Maritime Promise Act; (2) on October 26, 2011, a hearing was held to receive testimony regarding the economic importance of seaports.

#### COMMITTEE CONSIDERATION

On February 2, 2012, the Committee met in open session and ordered the bill, as amended, favorably reported to the House by roll call vote with a quorum present.

#### COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were 17 record votes taken during the Committee's consideration of H.R. 7.

The first record vote was on a motion to table the bill offered by Mr. Rahall.

The next 15 record votes were on amendments offered by: Mr. Mica; Mr. Barletta; Mr. Denham; Mr. Cummings; Ms. Johnson; Ms. Brown; Ms. Norton, and Ms. Edwards; Mr. Petri, Mr. T. Johnson, and Mr. Lipinski; Mr. Rahall; Mr. DeFazio; Mr. Capuano and Mr. Nadler; Mr. Carnahan (who offered two amendments); Ms. Napolitano; Ms. Brown; Ms. Edwards; Mr. Nadler; and Mr. Farenthold.

The last record vote was on a motion offered by Mr. Duncan to report the bill as amended to the House with a favorable recommendation. The bill, as amended, was reported to the House with a favorable recommendation after a record vote which was disposed of as follows:

[insert roll call vote on motion to report]

The Committee disposed of the following amendments by record vote:

[insert roll call votes on 15 amendments]

The Committee disposed of the motion to table by record vote:

[insert roll call vote on motion to table]

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 7, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

[insert CBO letter]

#### PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 7 is intended to streamline surface transportation programs, expedite project review and delivery, increase private sector participation in building transportation infrastructure, provide long-term, stable funding for surface transportation programs through FY 2016, and improve transportation safety.

#### ADVISORY OF EARMARKS

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

250

Number of Members: (33/26) Quorum: 30      Working Quorum: 20  
Date: 2/2/2012      Presiding: Mica  
Amendment or matter voted on: Motion to table Rahall motion to postpone  
Vote: 28-21

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica	X			Mr. Larsen		X	
Mr. Rahall		X		Mr. Lipinski		X	
Mr. Altmire		X		Mr. LoBiondo	X		
Mr. Barletta	X			Mr. Long			
Mr. Bishop		X		Mr. Meehan	X		
Mr. Boswell		X		Mr. Michaud		X	
Ms. Brown				Mr. Miller (CA)	X		
Dr. Bucshon	X			Ms. Miller (MI)			
Ms. Capito	X			Mr. Nadler		X	
Mr. Capuano		X		Mrs. Napolitano		X	
Mr. Carnahan		X		Ms. Norton		X	
Mr. Coble	X			Mr. Petri	X		
Mr. Cohen				Mr. Ribble	X		
Mr. Costello		X		Ms. Richardson		X	
Mr. Cravaack	X			Ms. Schmidt	X		
Mr. Crawford	X			Mr. Shuler			
Mr. Cummings		X		Mr. Shuster	X		
Mr. DeFazio		X		Mr. Sires			
Mr. Denham	X			Mr. Southerland	X		
Mr. Duncan	X			Mr. Walz		X	
Ms. Edwards		X		Mr. Young			
Mr. Farenthold	X						
Mr. Filner							
Mr. Fleischmann	X						
Mr. Gibbs	X						
Mr. Graves	X						
Mr. Guinta	X						
Mr. Hanna	X						
Dr. Harris	X						
Mrs. Herrera Beutler	X						
Ms. Hirono		X					
Mr. Holden		X					
Mr. Hultgren	X						
Mr. Hunter	X						
Mr. Johnson (IL)							
Ms. Johnson (TX)		X					
Mr. Landry							
Mr. Lankford	X						

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

Number of Members: (33/26) Quorum: 30

Working Quorum: 20

Date: 2/2/2012

Presiding: Mica

Amendment or matter voted on: Cummings Amendment 42 to H.R. 7

Vote: 20-30

251

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski			
Mr. Altmire	X			Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long			
Mr. Bishop	X			Mr. Meehan			
Mr. Boswell	X			Mr. Michaud	X		
Ms. Brown				Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler	X		
Mr. Capuano	X			Mrs. Napolitano	X		
Mr. Carnahan	X			Ms. Norton			
Mr. Coble		X		Mr. Petri		X	
Mr. Cohen	X			Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		Mr. Shuler			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			Mr. Sires			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		Mr. Walz	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)		X					
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

252

Number of Members: (33/26) Quorum: 30      Working Quorum: 20  
Date: 2/2/2012      Presiding: Mica  
Amendment or matter voted on: Petri Amendment 19 to H.R. 7  
Vote: 27-29

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski	X		
Mr. Altmire	X			Mr. LoBiondo	X		
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			Mr. Michaud	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler	X		
Mr. Capuano	X			Mrs. Napolitano	X		
Mr. Carnahan	X			Ms. Norton	X		
Mr. Coble		X		Mr. Petri	X		
Mr. Cohen	X			Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		Mr. Shuler	X		
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			Mr. Sires			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		Mr. Walz	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)	X						
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

253

Number of Members: (33/26) Quorum: 30

Working Quorum: 20

Date: 2/2/2012

Presiding: Mica

Amendment or matter voted on: Rahall Amendment 31 to H.R. 7

Vote: 22-32

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski	X		
Mr. Altmire				Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan			
Mr. Boswell	X			Mr. Michaud	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler	X		
Mr. Capuano	X			Mrs. Napolitano	X		
Mr. Carnahan	X			Ms. Norton	X		
Mr. Coble		X		Mr. Petri		X	
Mr. Cohen	X			Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		Mr. Shuler			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			Mr. Sires			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		Mr. Walz	X		
Ms. Edwards	X			Mr. Young		X	
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)		X					
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					



COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

259

Number of Members: (33/26) Quorum: 30      Working Quorum: 20  
Date: 2/2/2012      Presiding: Mica  
Amendment or matter voted on: Barletta Amendment 24 to H.R. 7  
Vote: 33-22

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski	X		
Mr. Altmire	X			Mr. LoBiondo		X	
Mr. Barletta	X			Mr. Long		X	
Mr. Bishop	X			Mr. Meehan	X		
Mr. Boswell	X			Mr. Michaud		X	
Ms. Brown	X			Mr. Miller (CA)	X		
Dr. Bucshon	X			Ms. Miller (MI)	X		
Ms. Capito		X		Mr. Nadler	X		
Mr. Capuano	X			Mrs. Napolitano	X		
Mr. Carnahan	X			Ms. Norton	X		
Mr. Coble		X		Mr. Petri		X	
Mr. Cohen	X			Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		Mr. Shuler	X		
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio				Mr. Sires			
Mr. Denham	X			Mr. Southerland		X	
Mr. Duncan	X			Mr. Walz		X	
Ms. Edwards	X			Mr. Young		X	
Mr. Farenthold	X						
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves	X						
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris	X						
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren	X						
Mr. Hunter		X					
Mr. Johnson (IL)	X						
Ms. Johnson (TX)	X						
Mr. Landry							
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

255

Number of Members: (33/26) Quorum: 30

Working Quorum: 20

Date: 2/2/2012

Presiding: Mica

Amendment or matter voted on: DeFazio Amendment 64 to H.R. 7

Vote: 23-29

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski	X		
Mr. Altmire	X			Mr. LoBiondo	X		
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			Mr. Michaud	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler	X		
Mr. Capuano	X			Mrs. Napolitano	X		
Mr. Carnahan	X			Ms. Norton	X		
Mr. Coble		X		Mr. Petri		X	
Mr. Cohen	X			Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		Mr. Shuler			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			Mr. Sires			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		Mr. Walz	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris							
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden							
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

256

Number of Members: (33/26) Quorum: 30      Working Quorum: 20  
Date: 2/2/2012      Presiding: Mica  
Amendment or matter voted on: Capuano/Nadler Amendment 25 to H.R. 7  
Vote: 24-29

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski	X		
Mr. Altmire	X			Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan	X		
Mr. Boswell	X			Mr. Michaud	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler	X		
Mr. Capuano	X			Mrs. Napolitano	X		
Mr. Carnahan	X			Ms. Norton	X		
Mr. Coble		X		Mr. Petri		X	
Mr. Cohen				Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		Mr. Shuler			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			Mr. Sires			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		Mr. Walz	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford	X						

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

257

Number of Members: (33/26) Quorum: 30

Working Quorum: 20

Date: 2/2/2012

Presiding: Mica

Amendment or matter voted on: Carnahan Amendment 51 to H.R. 7

Vote: 23-30

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski	X		
Mr. Altmire	X			Mr. LoBiondo	X		
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			Mr. Michaud	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler	X		
Mr. Capuano	X			Mrs. Napolitano	X		
Mr. Carnahan	X			Ms. Norton	X		
Mr. Coble		X		Mr. Petri		X	
Mr. Cohen				Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		Mr. Shuler			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			Mr. Sires			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		Mr. Walz	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

258

Number of Members: (33/26) Quorum: 30

Working Quorum: 20

Date: 2/2/2012

Presiding: Mica

Amendment or matter voted on: Napolitano Amendment 10 to H.R. 7

Vote: 8-40

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen		X	
Mr. Rahall		X		Mr. Lipinski			
Mr. Altmire		X		Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop		X		Mr. Meehan		X	
Mr. Boswell		X		Mr. Michaud		X	
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler			
Mr. Capuano				Mrs. Napolitano	X		
Mr. Carnahan	X			Ms. Norton	X		
Mr. Coble		X		Mr. Petri		X	
Mr. Cohen				Mr. Ribble		X	
Mr. Costello				Ms. Richardson		X	
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		Mr. Shuler			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio				Mr. Sires			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		Mr. Walz		X	
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden		X					
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

259

Number of Members: (33/26) Quorum: 30

Working Quorum: 20

Date: 2/2/2012

Presiding: Mica

Amendment or matter voted on: Denham Amendment 41 to H.R. 7

Vote: 31-22

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica	X			Mr. Larsen		X	
Mr. Rahall		X		Mr. Lipinski			
Mr. Altmire		X		Mr. LoBiondo	X		
Mr. Barletta	X			Mr. Long	X		
Mr. Bishop		X		Mr. Meehan	X		
Mr. Boswell		X		Mr. Michaud		X	
Ms. Brown		X		Mr. Miller (CA)	X		
Dr. Bucshon	X			Ms. Miller (MI)	X		
Ms. Capito	X			Mr. Nadler		X	
Mr. Capuano		X		Mrs. Napolitano		X	
Mr. Carnahan		X		Ms. Norton		X	
Mr. Coble	X			Mr. Petri	X		
Mr. Cohen		X		Mr. Ribble	X		
Mr. Costello		X		Ms. Richardson		X	
Mr. Cravaack	X			Ms. Schmidt	X		
Mr. Crawford	X			Mr. Shuler			
Mr. Cummings		X		Mr. Shuster	X		
Mr. DeFazio		X		Mr. Sires			
Mr. Denham	X			Mr. Southerland	X		
Mr. Duncan	X			Mr. Walz		X	
Ms. Edwards		X		Mr. Young			
Mr. Farenthold	X						
Mr. Filner							
Mr. Fleischmann	X						
Mr. Gibbs	X						
Mr. Graves	X						
Mr. Guinta	X						
Mr. Hanna	X						
Dr. Harris	X						
Mrs. Herrera Beutler	X						
Ms. Hirono		X					
Mr. Holden		X					
Mr. Hultgren	X						
Mr. Hunter	X						
Mr. Johnson (IL)							
Ms. Johnson (TX)		X					
Mr. Landry	X						
Mr. Lankford	X						

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

260

Number of Members: (33/26) Quorum: 30

Working Quorum: 20

Date: 2/2/2012

Presiding: Mica

Amendment or matter voted on: C. Brown Amendment 21 to H.R. 7

Vote: 24-30

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski	X		
Mr. Altmire	X			Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			Mr. Michaud	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler	X		
Mr. Capuano	X			Mrs. Napolitano	X		
Mr. Carnahan	X			Ms. Norton	X		
Mr. Coble		X		Mr. Petri		X	
Mr. Cohen	X			Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		Mr. Shuler			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			Mr. Sires			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		Mr. Walz	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler	X						
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

261

Number of Members: (33/26) Quorum: 30

Working Quorum: 20

Date: 2/2/2012

Presiding: Mica

Amendment or matter voted on: Edwards Amendment 18 to H.R. 7

Vote: 23-29

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski	X		
Mr. Altmire		X		Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			Mr. Michaud	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler	X		
Mr. Capuano	X			Mrs. Napolitano	X		
Mr. Carnahan	X			Ms. Norton	X		
Mr. Coble		X		Mr. Petri		X	
Mr. Cohen	X			Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		Mr. Shuler			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			Mr. Sires			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan				Mr. Walz	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves							
Mr. Guinta		X					
Mr. Hanna	X						
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					



COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

262

Number of Members: (33/26) Quorum: 30      Working Quorum: 20  
Date: 2/2/2012      Presiding: Mica  
Amendment or matter voted on: Nadler Amendment 96 to H.R. 7  
Vote: 25-27

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski	X		
Mr. Altmire	X			Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan	X		
Mr. Boswell	X			Mr. Michaud	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler	X		
Mr. Capuano	X			Mrs. Napolitano	X		
Mr. Carnahan	X			Ms. Norton	X		
Mr. Coble				Mr. Petri		X	
Mr. Cohen	X			Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson	X		
Mr. Cravaack		X		Ms. Schmidt	X		
Mr. Crawford		X		Mr. Shuler			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio				Mr. Sires			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		Mr. Walz	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna	X						
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

263

Number of Members: (33/26) Quorum: 30 Working Quorum: 20  
Date: 2/2/2012 Presiding: Mica  
Amendment or matter voted on: Carnahan Amendment 60 to H.R. 7  
Vote: 26-28

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski	X		
Mr. Altmire	X			Mr. LoBiondo	X		
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan	X		
Mr. Boswell	X			Mr. Michaud	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler	X		
Mr. Capuano	X			Mrs. Napolitano	X		
Mr. Carnahan	X			Ms. Norton	X		
Mr. Coble				Mr. Petri		X	
Mr. Cohen	X			Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		Mr. Shuler			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			Mr. Sires	X		
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		Mr. Walz	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

264

Number of Members: (33/26) Quorum: 30      Working Quorum: 20  
Date: 2/2/2012      Presiding: Mica  
Amendment or matter voted on: Nadler Amendment 106 to H.R. 7  
Vote: 23-29

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski	X		
Mr. Altmire	X			Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			Mr. Michaud	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler	X		
Mr. Capuano	X			Mrs. Napolitano	X		
Mr. Carnahan	X			Ms. Norton	X		
Mr. Coble				Mr. Petri		X	
Mr. Cohen	X			Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford				Mr. Shuler			
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			Mr. Sires			
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		Mr. Walz	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold		X					
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

Number of Members: (33/26) Quorum: 30

Working Quorum: 20

Date: 2/2/2012

Presiding: Mica

Amendment or matter voted on: Farenthold Amendment 14 to H.R. 7

Vote: 15-38

265

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica	X			Mr. Larsen		X	
Mr. Rahall		X		Mr. Lipinski		X	
Mr. Altmire		X		Mr. LoBiondo		X	
Mr. Barletta		X		Mr. Long	X		
Mr. Bishop		X		Mr. Meehan		X	
Mr. Boswell		X		Mr. Michaud		X	
Ms. Brown		X		Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)	X		
Ms. Capito		X		Mr. Nadler		X	
Mr. Capuano		X		Mrs. Napolitano		X	
Mr. Carnahan		X		Ms. Norton		X	
Mr. Coble				Mr. Petri	X		
Mr. Cohen		X		Mr. Ribble		X	
Mr. Costello		X		Ms. Richardson		X	
Mr. Cravaack	X			Ms. Schmidt		X	
Mr. Crawford	X			Mr. Shuler			
Mr. Cummings		X		Mr. Shuster		X	
Mr. DeFazio		X		Mr. Sires			
Mr. Denham	X			Mr. Southerland		X	
Mr. Duncan	X			Mr. Walz		X	
Ms. Edwards		X		Mr. Young			
Mr. Farenthold	X						
Mr. Filner							
Mr. Fleischmann	X						
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna	X						
Dr. Harris	X						
Mrs. Herrera Beutler	X						
Ms. Hirono		X					
Mr. Holden		X					
Mr. Hultgren		X					
Mr. Hunter	X						
Mr. Johnson (IL)							
Ms. Johnson (TX)		X					
Mr. Landry	X						
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
FULL COMMITTEE – ROLL CALL  
U.S. HOUSE OF REPRESENTATIVE – 112<sup>TH</sup> CONGRESS

266

Number of Members: (33/26) Quorum: 30      Working Quorum: 20  
Date: 2/2/2012      Presiding: Mica  
Amendment or matter voted on: Ordering H.R. 7 Reported, as amended  
Vote: 29-24

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica	X			Mr. Larsen		X	
Mr. Rahall		X		Mr. Lipinski		X	
Mr. Altmire		X		Mr. LoBiondo	X		
Mr. Barletta	X			Mr. Long	X		
Mr. Bishop		X		Mr. Meehan	X		
Mr. Boswell		X		Mr. Michaud		X	
Ms. Brown		X		Mr. Miller (CA)	X		
Dr. Bucshon	X			Ms. Miller (MI)	X		
Ms. Capito	X			Mr. Nadler		X	
Mr. Capuano		X		Mrs. Napolitano		X	
Mr. Carnahan		X		Ms. Norton		X	
Mr. Coble				Mr. Petri		X	
Mr. Cohen		X		Mr. Ribble	X		
Mr. Costello		X		Ms. Richardson		X	
Mr. Cravaack	X			Ms. Schmidt	X		
Mr. Crawford	X			Mr. Shuler			
Mr. Cummings		X		Mr. Shuster	X		
Mr. DeFazio		X		Mr. Sires			
Mr. Denham	X			Mr. Southerland	X		
Mr. Duncan	X			Mr. Walz		X	
Ms. Edwards		X		Mr. Young			
Mr. Farenthold	X						
Mr. Filner							
Mr. Fleischmann	X						
Mr. Gibbs	X						
Mr. Graves	X						
Mr. Guinta	X						
Mr. Hanna	X						
Dr. Harris	X						
Mrs. Herrera Beutler	X						
Ms. Hirono		X					
Mr. Holden		X					
Mr. Hultgren	X						
Mr. Hunter	X						
Mr. Johnson (IL)							
Ms. Johnson (TX)		X					
Mr. Landry	X						
Mr. Lankford	X						



CONGRESSIONAL BUDGET OFFICE  
U.S. Congress  
Washington, DC 20515

*Douglas W. Elmendorf, Director*

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February 9, 2012

Honorable John L. Mica  
Chairman  
Committee on Transportation  
and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 7, the American Energy and Infrastructure Jobs Act of 2012.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro, who can be reached at 226-2860.

Sincerely,

*Douglas W. Elmendorf*  
Douglas W. Elmendorf

Enclosure

cc: Honorable Nick J. Rahall II  
Ranking Member



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

February 9, 2012

### **H.R. 7**

### **American Energy and Infrastructure Jobs Act of 2012**

*As ordered reported by the House Committee on Transportation and Infrastructure  
on February 2, 2012*

#### **SUMMARY**

H.R. 7 would extend the authority for the surface transportation programs administered by the Federal-Aid Highway Administration (FHWA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Federal Motor Carrier Safety Administration (FMCSA), and certain programs administered by the Federal Rail Administration (FRA).

CBO estimates that enacting the bill would provide total contract authority (the authority to incur obligations in advance of appropriation acts) of \$228 billion over the 2012-2016 period. Contract authority is a form of budget authority; the use of that authority for transportation programs has traditionally been controlled by provisions in appropriation acts that limit the amount of contract authority that may be obligated (those provisions are known as obligation limitations). Consistent with the rules in the Balanced Budget and Emergency Deficit Control Act for constructing its baseline of future contract authority for transportation programs, CBO assumes that the contract authority provided by the bill for 2016, the last year of the authorization, would continue at the same rate in each of the following years. Using that assumption, CBO estimates that enacting the bill would result in baseline contract authority of \$560 billion over the 2012-2022 period. Relative to the amounts of contract authority for surface transportation programs currently projected in CBO's baseline, that funding level represents an increase of \$7 billion for the 2012-2017 period and \$15.3 billion over the 2012-2022 period.<sup>1</sup>

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1. The Surface and Air Transportation Programs Extension Act of 2011 (Public Law 112-30) provided about \$25 billion in contract authority for programs funded by H.R. 7 through March 31, 2012. Following baseline construction rules, CBO assumes that this funding would continue at the same rate for the remainder of fiscal year 2012. H.R. 7 would also provide \$25 billion for the second half of fiscal year 2012. As a result, contract authority provided by the bill for 2012 would not increase compared to CBO's baseline.

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H.R. 7 would expand federal credit programs administered by the Department of Transportation (DOT) that provide direct loans and loan guarantees. CBO estimates the changes to those programs authorized by the bill would increase direct spending by \$110 million over the 2012-2017 period and by \$300 million over the 2012-2022 period; therefore, pay-as-you-go procedures apply.

Enacting H.R. 7 could result in the collection of additional civil penalties because it would increase the amount that DOT could impose for violating certain motor carrier and hazardous materials safety regulations. Penalties are recorded in the budget as revenues and deposited in the U.S. Treasury. CBO estimates that any additional penalty collections under the bill would be insignificant.

For this estimate, CBO assumes that most spending for the surface transportation program will continue to be controlled by obligation limitations set in appropriation acts. The obligation limitations for 2012 were enacted in the Consolidated and Further Continuing Appropriations Act, 2012 (Public Law 112-55). H.R. 7 would not amend the obligation limitations that have already been enacted for 2012. The bill would authorize obligation limitations totaling \$202 billion over the 2013-2016 period.

The bill also would authorize appropriations of \$8.4 billion for other surface transportation programs administered by DOT, including transit, rail, and hazardous materials programs. Assuming appropriation of the estimated obligation limitation for 2013-2016, the other amounts specified in the legislation, and amounts estimated to be necessary, CBO estimates that implementing the bill would add \$170 billion in discretionary costs over the 2012-2017 period.

CBO has determined that the nontax provisions of H.R. 7 contain intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) on manufacturers, owners, and operators of motorcoaches and on driving schools. The bill would impose additional intergovernmental mandates on states and would preempt state, local, and tribal laws. The bill also would impose private-sector mandates on owners and operators of commercial vehicles, brokers for motor carriers, coordinators of freight shipments, and other private entities. Because of uncertainty about the number of entities affected and the scope of future regulations—particularly those governing motorcoach safety—CBO cannot determine whether the aggregate cost of the mandates in the bill would exceed the annual thresholds established in UMRA for intergovernmental or private-sector mandates (\$73 million and \$146 million in 2012, respectively, adjusted annually for inflation).

## **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary impact of H.R. 7 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).



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	By Fiscal Year, in Millions of Dollars						2012-
	2012	2013	2014	2015	2016	2017	2017
<b>CHANGES IN DIRECT SPENDING</b>							
DOT Contract Authority							
Budget Authority <sup>a</sup>	0	1,035	1,290	1,345	1,665	1,665	7,000
Estimated Outlays	0	0	0	0	0	0	0
Expansion of DOT Loan and Loan Guarantee Programs <sup>b</sup>							
Estimated Budget Authority	0	22	22	22	22	32	120
Estimated Outlays	0	15	20	21	22	32	110
Total Changes							
Estimated Budget Authority	0	1,057	1,312	1,367	1,687	1,697	7,120
Estimated Outlays	0	15	20	21	22	32	110
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>							
Spending from the Highway Trust Fund							
Estimated Obligation Limitation <sup>c</sup>	0	50,124	50,379	50,434	50,758	0	201,695
Estimated Outlays	0	12,551	32,196	40,161	43,807	35,568	164,283
Federal Transit Administration							
Authorization Level	0	2,098	2,098	2,098	2,098	0	8,392
Estimated Outlays	0	329	885	1,295	1,589	1,494	5,592
Bridge and Tunnel Inspection							
Estimated Authorization Level	0	15	15	0	0	0	30
Estimated Outlays	0	2	8	10	5	3	28
Other Authorized Programs							
Authorization Level	0	90	39	39	39	0	207
Estimated Outlays	0	37	60	47	42	10	196
Total Changes							
Estimated Budgetary Resources	0	52,327	52,531	52,571	52,895	0	210,324
Estimated Outlays	0	12,919	33,149	41,513	45,443	37,075	170,099

Notes: DOT = Department of Transportation.

- a. CBO estimates that H.R. 7 would increase budget authority by \$15.3 billion above the amounts assumed in CBO's baseline for surface transportation programs over the 2012-2022 period.
- b. CBO estimates that expanding DOT's loan programs would cost \$300 million over the 2012-2022 period.
- c. Estimated discretionary outlays reflect use of funds under the 2013-2016 obligation limitations estimated by CBO. (Outlays stemming from additional contract authority for years after 2016 would be authorized in future legislation.)

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## **BASIS OF ESTIMATE**

For this estimate, CBO assumes that H.R. 7 will be enacted before the current authorization for surface transportation programs expires on March 31, 2012, that the authorized and necessary amounts will be provided for each year in appropriation acts, and that outlays will follow the historical rate of spending for transportation programs.

### **Direct Spending**

**Department of Transportation Contract Authority.** H.R. 7 would increase the amount of budget authority (in the form of contract authority) that is projected in CBO's baseline to be available for DOT's surface transportation programs over the 2012-2022 period. Because spending of the contract authority for transportation programs is expected to be controlled by provisions in future appropriation acts, there would be no impact on direct spending expenditures from this provision.

Over the 2012-2016 period, H.R. 7 would provide \$228 billion in contract authority for the following programs:

- \$185 billion for programs administered by FHWA;
- \$38 billion for programs administered by FTA;
- \$3 billion for programs administered by NHTSA; and
- \$2 billion for programs administered by FMCSA.

About \$25 billion in contract authority has already been provided through March 31, 2012. H.R. 7 would continue funding surface transportation programs at the same rate for the rest of the year. That level is consistent with the assumption in CBO's baseline that contract authority provided for part of a year continues at the same rate for the full year.

Consistent with the rules in the Balanced Budget and Emergency Deficit Control Act for constructing the baseline, CBO assumes that contract authority provided by the bill for 2016 (\$51.2 billion), the last year of the authorization, would continue at the same level in each of the following years. Using that assumption, CBO estimates that enacting the bill would result in baseline contract authority totaling about \$560 billion over the 2012-2022 period. That funding level represents an increase in budget authority of \$7 billion over the 2012-2017 period and \$15.3 billion over the 2012-2022 period above the amounts of contract authority for surface transportation programs currently projected in CBO's baseline.

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**Expansion of DOT Loan and Loan Guarantee Programs.** H.R. 7 would amend and expand two loan and loan guarantee programs within the DOT: the Transportation Infrastructure Finance and Innovation Program (TIFIA) provides credit assistance for certain large transportation projects and the Railroad Rehabilitation and Improvement Financing (RRIF) Program provides loans to develop railroad infrastructure. CBO estimates that those provisions would increase direct spending by \$110 million over the 2012-2017 period and \$300 million over the 2012-2022 period.

The budgetary treatment of the TIFIA and RRIF programs is governed by the Federal Credit Reform Act (FCRA) of 1990, which requires an appropriation to cover the subsidy and administrative costs associated with federal direct loans and loan guarantees. The subsidy cost is the estimated long-term cost to the government of a loan or loan guarantee, calculated on a net-present-value basis, excluding administrative costs. Administrative costs, which are recorded on a cash basis, include activities related to making, servicing, and liquidating loans as well as overseeing the performance of lenders when a federal guarantee of a private loan is made.

*TIFIA Expansion.* In recent years, TIFIA loans have had an average estimated subsidy rate of about 10 percent. That rate reflects the risk that such transportation projects may default on a loan from the government. (The subsidy rate of a federal loan reflects the subsidy cost for each dollar of the face value of the loan. For example, a \$10 million TIFIA loan with an estimated 10 percent subsidy rate would have a cost in the federal budget of \$1 million in the year that the loan is made.)

H.R. 7 would:

- Provide budget authority of \$1 billion per year over the 2013-2016 period (in the form of contract authority) to pay for the subsidy cost of TIFIA loans and guarantees;
- Increase the share of total project costs that TIFIA loans and guarantees can cover from 33 percent to 49 percent;
- Under certain conditions, authorize prospective borrowers to pay DOT an amount equivalent to the estimated subsidy cost of their approved TIFIA loan or guarantee. (This authority is referred to here as a borrower-financed credit subsidy.)

If no funds were provided for TIFIA or if the funds authorized by H.R. 7 were fully obligated, section 1201 would authorize DOT to accept payments from transportation project sponsors that are equivalent to the estimated federal subsidy cost of those loans or guarantees. CBO estimates that enacting those provisions would increase direct spending by \$90 million over the 2017-2022 period, when we expect that the funds appropriated by the bill for subsidy costs would be fully obligated. That amount reflects our estimate of the

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future demand for TIFIA loans and our view that borrower-financed credit subsidies are likely to result in a net cost to the government.<sup>2</sup>

CBO expects that, under H.R. 7, the demand for TIFIA credit assistance would increase. In both 2010 and 2011, TIFIA received loan applications that had a face value of more than \$8 billion. Those projects requested federal loans that would cover, on average, about 30 percent of total project costs (almost the maximum allowed under current law). Because of budget constraints, DOT was able to provide loans and guarantees for less than 10 percent of the requested loan volume at an estimated subsidy cost of about \$100 million per year. As a result, there remains a significant backlog of proposed projects that are probably qualified to receive a TIFIA loan.

Because of provisions in the bill that would authorize TIFIA to provide loans to cover up to 49 percent of project costs, CBO expects that most individual loan requests would probably be larger under H.R. 7 than under current law. Based on information from DOT and project financing experts, we estimate that the face value of loans funded through the TIFIA program could reach \$5 billion per year during the 2013-2016 period and total \$1 billion to \$2 billion per year in 2017 and subsequent years as new projects are developed and built.

In any year that the TIFIA program has insufficient budget authority to provide credit subsidies, H.R. 7 would authorize DOT to accept payments from TIFIA borrowers equal to the estimated subsidy cost of their loans. CBO expects that this provision would be used by DOT and borrowers to issue direct loans with a value between \$1 billion to \$2 billion each year over the 2017-2022 period after the amounts provided in H.R. 7 have been fully obligated.

CBO expects that prospective TIFIA borrowers considering whether to pay the subsidy costs of the federal credit backing they seek would generally refuse to implement projects if they conclude that the subsidy cost was too great. However, those prospective TIFIA borrowers would tend to obtain federal credit backing if they conclude that the subsidy cost of TIFIA credit is not too high. CBO expects that this sets up an asymmetry in the characteristics of projects that proceed with borrower-financed credit subsidies, which would create a situation where the TIFIA loan portfolio would have more projects where the subsidy cost paid by borrowers is less than the cost to the government as calculated under FCRA. CBO estimates that the subsidy cost charged to borrowers under this

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2. The types of transportation projects supported by TIFIA loans involve significant construction and operations risk. Typically, private loans are available for either the construction period or the operational phase of the project. TIFIA provides one loan for both components, thus reducing the cost of capital for transportation projects and possibly improving a project's financial viability. However, if a borrower pays the subsidy cost of a TIFIA loan or guarantee, that added cost, which would otherwise be borne by the government, would contribute to a reduction in the creditworthiness of the project. Because many projects backed by TIFIA would not be financially feasible without a federal credit subsidy, there is a practical limit to the amount of additional cost (in the form of subsidies) that such projects could bear without significantly increasing the risk that the borrower will default.

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provision would, on average, be about 1 percent lower than the likely cost of the federal loan or loan guarantee. Applying that 1 percent subsidy rate to our estimate of the average annual demand for credit assistance from TIFIA of between \$1 billion and \$2 billion from 2017-2022 results in our estimate that enacting this provision would cost \$90 million.

*RRIF Program Expansion.* Under the RRIF program, the FRA provides direct loans and loan guarantees to develop railroad infrastructure. The cost of RRIF loans are calculated under FCRA, and borrowers pay fees up front to offset the estimated subsidy cost. (In recent years, RRIF loans have had an average subsidy rate of about 5 percent.) Subtitle D of title VIII would change how FRA accounts for the value of certain collateral railroads offer to obtain RRIF loans.<sup>3</sup> CBO expects that this change would result in DOT assigning a higher value to that collateral than it otherwise would, making RRIF loans more appealing to borrowers and thus increasing the demand for RRIF loans. According to the FRA, this required change in the method used to value this type of collateral would likely underestimate the subsidy rate of the loans. CBO estimates that underestimating would reduce the subsidy rate on RRIF loans by about 5 percent. Further, CBO expects the RRIF program to operate at a net cost to the government over time because the program requires DOT to refund the fees collected from the borrower when a loan was issued if the borrower has not defaulted. However, the government is not authorized to collect additional money if the borrower fees do not fully cover the subsidy cost of the loan.

Increasing the estimated value of certain collateral for RRIF loans would increase the perceived credit worthiness of projects, in turn lowering the apparent subsidy rate for loans under the program and thereby the fees charged to borrowers. With lower fees, CBO expects demand for RRIF loans to grow—from a historical loan volume of \$200 million per year to about \$400 million annually. That expansion would increase costs for the RRIF program from both the asymmetrical selection of projects and provisions in the bill mandating how DOT should value certain loan collateral. CBO estimates that enacting those provisions would increase direct spending by \$210 million over the 2013-2022 period.

### **Spending Subject to Appropriation**

Subject to appropriation of the specified and necessary amounts, CBO estimates that implementing H.R. 7 would have discretionary costs of \$170 billion over the 2012-2017 period.

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3. The bill would require FRA to value collateral offered to secure loans at 100 percent of the liquidated asset value and would require that for loans offered to railroads installing positive train control systems—a type of safety technology—FRA would include the total cost of labor and materials as the value of that collateral. Under current practice and to accurately reflect the potential cash flows to and from the government (in accordance with FCRA), FRA discounts the value of collateral that railroads offer because the value of the asset depreciates over time. Also, the government may have to wait to be able to liquidate the asset, delaying the cash flow into the Treasury, and reducing the net present value of any transaction. In the case of positive train control, the government would at no point be able to recoup any costs that the railroad incurred for labor.

**Spending from the Highway Trust Fund.** CBO expects that the contract authority provided in the bill would be controlled by limitations on obligations set in annual appropriation acts. CBO estimates that H.R. 7 would authorize total obligation limitations of \$202 billion over the 2013-2016 period, including \$163 billion for programs administered by FHWA and about \$34 billion for programs administered by FTA. While this bill would not authorize an obligation limitation level for programs administered by NHTSA or FMCSA, CBO's estimate of discretionary spending under this legislation assumes obligation limitations that are equal to the contract authority provided in the bill for programs administered by those agencies—\$5 billion. (Historically the Congress has set obligation limitations at or near such levels.) For this estimate, CBO did not project this discretionary authority past fiscal year 2016, the end of the authorization period covered by the legislation. Because the 2012 obligation limitation has already been enacted, CBO's estimate of the costs of the bill include the amounts authorized for 2013-2016. CBO estimates that implementing those provisions would cost \$164 billion over the 2013-2017 period.

**Federal Transit Administration.** H.R. 7 would authorize the appropriation of about \$2.1 billion a year over the 2013-2016 period. Those amounts could be used for: grants to state and local governments to construct new transit systems that use dedicated or controlled rights-of-way (such as subways or light rail lines) including costs to develop corridors to support such systems; programs to carry out research, outreach, and technical assistance; and administrative costs for the FTA. Assuming appropriation of the authorized amounts, CBO estimates that implementing those provisions would cost about \$5.6 billion over the 2012-2017 period.

**Bridge and Tunnel Inspection.** Section 1114 would expand the detail and scope of the current national bridge inspection program and require safety inspections of tunnels. Implementing this provision would increase the frequency of inspections of federally owned bridges and would add to the training that inspectors of those bridges need in order to perform this work. Current regulations require that federal agencies that own and operate bridges on public roads comply with all safety requirements under DOT's bridge program. There are about 9,000 such bridges nationwide, mostly owned by the Departments of Agriculture, Defense, and the Interior. Based on information from DOT, CBO estimates that implementing this provision would cost \$28 million over the 2012-2017 period, assuming appropriation of the necessary amounts.

**Other Authorized Programs.** H.R. 7 also would authorize the appropriation of \$157 million over the 2012-2016 period for grants to emergency responders for training and planning activities related to the transportation of hazardous materials. It would also authorize the appropriation of \$50 million, in 2013, to cover the cost of providing certain RRIF program loans to install safety equipment. CBO estimates that enacting those provisions would cost \$196 million over the 2012-2017 period.

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## Revenues

Enacting H.R. 7 could result in the collection of additional civil penalties because it would increase the amount of such penalties that DOT could impose for violating certain safety regulations affecting motor carriers. The bill would also create new civil penalties for violating FMCSA regulations. Penalties are recorded in the federal budget as revenues and deposited in the U.S. Treasury. CBO estimates that any additional collections under the bill would be insignificant.

## PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 7, the American Energy and Infrastructure Jobs Act of 2012, as ordered reported by the House Committee on Transportation and Infrastructure on February 2, 2012

	By Fiscal Year, in Millions of Dollars												2012-	2012-
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2017	2022	
NET INCREASE IN THE DEFICIT														
Statutory Pay-As-You-Go Impact	0	15	20	21	22	32	32	32	42	42	42	110	300	

## INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

CBO has determined that the nontax provisions of H.R. 7 contain intergovernmental and private-sector mandates as defined in UMRA by imposing new safety standards on manufacturers, owners, and operators of motorcoaches and new standards for schools that offer training for operators of commercial motor vehicles. The bill would impose additional intergovernmental mandates on states and would preempt state, local, and tribal laws and regulations governing safety standards for motorcoaches, the transportation of hazardous and radioactive materials, and the ability of some state and local governments to hear some environmental cases. H.R. 7 also would impose several new private-sector mandates. For example, employers would be charged a fee for complying with the requirement to check the records of certain employees through FMCSA's clearinghouse concerning alcohol and drug use. Manufacturers, owners, and operators of agricultural equipment would have to comply with new safety standards. Freight forwarders and brokers would have to comply with new registration requirements, and meet a higher

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minimum threshold of financial responsibility. The bill also would impose mandates on Amtrak, owners and operators of motor vehicles transporting radioactive materials and other entities.

Because of uncertainty about the number of entities affected and the scope of future regulations—particularly those governing motorcoach safety—CBO cannot determine whether the aggregate cost of the mandates in the bill would exceed the annual thresholds established in UMRA for intergovernmental or private-sector mandates (\$73 million and \$146 million in 2012, respectively, adjusted annually for inflation).

### **PREVIOUS CBO ESTIMATES**

CBO provided cost estimates for several bills that were ordered reported by the Senate Committee on Commerce, Science, and Transportation on December 14, 2011: S. 1449, the Motor Vehicle and Highway Safety Improvement Act of 2011; S. 1950, the Commercial Motor Vehicle Safety Enhancement Act of 2011; S. 1952, the Hazardous Materials Transportation Safety Improvement Act of 2011; and S. 1953, the Research and Innovative Technology Administration (RITA) Reauthorization Act of 2011. CBO also provided cost estimates for: S. 1813, the Moving Ahead for Progress in the 21st Century Act, as ordered reported by the Senate Committee on Environment and Public Works on November 9, 2011, with language provided to CBO on February 2, 2012; and the Federal Public Transportation Act of 2012 as ordered reported by the Senate Committee on Banking on February 2, 2012. Those bills would reauthorize programs administered by NHTSA, FMCSA, the Pipelines and Hazardous Materials Administration, RITA, FHWA, and FTA, respectively. Among other things, the Senate bills would reauthorize the DOT programs only through 2013, while H.R. 7 would reauthorize them through 2016. The CBO cost estimates reflect those differences.

### **ESTIMATE PREPARED BY:**

Federal Costs: Sarah Puro—FHWA, NHTSA, FMCSA, and FRA Programs  
Susan Willie—Transit Programs

Impact on State, Local, and Tribal Governments: Ryan Miller

Impact on the Private Sector: Vi Nguyen

### **ESTIMATE APPROVED BY:**

Theresa Gullo  
Deputy Assistant Director for Budget Analysis



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In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 7 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

#### SECTION-BY-SECTION ANALYSIS

The following describes the bill as reported by the Committee.

##### *Sec. 1. Short title.*

This section provides the short title and table of contents.

##### *Sec. 2. General definitions.*

This section provides the general definitions.

##### *Sec. 3. Effective date.*

This section provides that Titles I through VII of this Act, including amendments made by those titles, shall take effect on October 1, 2012.

#### TITLE I – FEDERAL-AID HIGHWAYS

##### *Sec. 1001. Amendments to title 23, United States Code.*

This section states that amendments or repeals referenced in this title are made to title 23, United States Code.

#### SUBTITLE A – AUTHORIZATION OF PROGRAMS

##### *Sec. 1101. Authorization of appropriations.*

Subsection (a) authorizes funding levels for the following programs to be appropriated out of the Highway Trust Fund (other than the Alternative Transportation Account) for each of fiscal years 2013 through 2016:

- National Highway System Program
- Surface Transportation Program
- Highway Safety Improvement Program
- Tribal Transportation Program
- Federal Lands Transportation Programs
- Recreational Trails Program

- Appalachian Development Highway System Program

Subsection (b) authorizes the following programs to be funded out of the Alternative Transportation Account of the Highway Trust Fund for each of fiscal years 2013 through 2016:

- Congestion Mitigation and Air Quality Improvement Program
- Ferry Boat and Ferry Terminal Facilities Program
- Puerto Rico Highway Program
- Territorial Highway Program

Subsection (c) defines the term “small business concern” of Disadvantaged Business Enterprises pursuant to section 3 of the Small Business Act. The term excludes a socially and economically disadvantaged individual or individuals that have average annual gross receipts during the preceding 3 fiscal years in excess of \$22,410,000. Small business concerns will receive no less than 10 percent of the amounts made available for any program under title I, II, and III of this Act and 23 U.S.C. §403.

*Sec. 1102. Highway obligation ceiling.*

Subsection (a) sets the obligation limitation for all federal-aid highway contract authority programs authorized to be appropriated out of the Highway Trust Fund (other than the Alternative Transportation Account). The obligations for these programs shall not exceed –

- \$37,366,000,000 for fiscal year 2013;
- \$37,621,000,000 for fiscal year 2014;
- \$37,676,000,000 for fiscal year 2015;
- \$38,000,000,000 for fiscal year 2016.

Subsection (b) lists the programs that do not apply to the exceptions under subsection (a).

Subsection (c) sets the guidelines the Secretary must follow when distributing obligation authority.

Subsection (d) directs the Secretary to redistribute unused obligation authority each fiscal year.

Subsection (e) requires the Secretary to distribute to the states any funds that are authorized to be appropriated for the fiscal year towards federal-aid highway programs and what will not be allocated to the states due to any obligation limitation for the fiscal year. Funds distributed under paragraph (1) will use the same ratio as subsection (c)(4) and are available for any purpose described in 23 U.S.C. §133(b).

Subsection (f) requires obligation authority distributed for a fiscal year under subsection (c)(3) to remain available until used by the eligible entity and be in addition to the amount of any limitation imposed on obligations for federal-aid highway contract authority programs for future fiscal years.

*Sec. 1103. Alternative Transportation Account obligation ceiling.*

Subsection (a) directs that the total obligations from amounts made available from the Alternative Transportation Account of the Highway Trust Fund for the programs which sums are authorized to be appropriated under sections 1101(b) and 7001 of this Act shall not exceed \$2,707,000,000 for each of fiscal years 2013 through 2016. The \$2.707 billion obligation ceiling in this section is inclusive of the \$440 million obligation ceiling in section 7002 of this Act.

Subsection (b) amends 23 U.S.C. §118(a) to clarify that programs funded out of the Alternative Transportation Account are contract authority programs.

*Sec. 1104. Apportionment.*

This section amends 23 U.S.C. §104.

Subsection (a) authorizes \$400,000,000 towards administrative expenses of the Federal Highway Administration (FHWA) for each of fiscal years 2013 through 2016. This sum includes funds for the Appalachian Regional Commission to cover the administrative activities of the Appalachian development highway system.

Subsection (b) requires the Secretary to distribute the remainder of the sums authorized for expenditure on the National Highway System program, the congestion mitigation and air quality improvement program, the surface transportation program, and the highway safety improvement program to eligible states through specified formulas.

Subsection (c) requires the Secretary to calculate the deck area for highway bridges on the National Highway System that are eligible for replacement and rehabilitation.

Subsection (d) directs the Secretary to certify to each of the state transportation departments the sums apportioned them by October 1 of each fiscal year.

Subsection (e) requires annual audits of financial statements of the Highway Trust Fund to be conducted by the Office of Inspector General of the Department of Transportation.

Subsection (f) directs the Secretary to set-aside 1.15 percent of the funds authorized to be appropriated for the National Highway System program and surface transportation program each fiscal year to carry out the metropolitan planning requirements of 49 U.S.C. §5203. The funds set aside under this subsection are apportioned to the states in the ratio which the population in the urbanized areas in each state bears to the total population in such urbanized areas in all the states. No state shall receive less than  $\frac{1}{2}$  of 1 percent of the amount apportioned. States must make the set aside amounts under this subsection available to the metropolitan planning organizations of their state in order to carry out 49 U.S.C. §5203. States that receive the minimum apportionment may use their funds to finance transportation planning outside of urbanized areas, subject to the approval of the Secretary. Any unused funds for 49 U.S.C. §5203 may be used to fund activities for section 5204 of such title. The distribution of planning funds

under paragraph (3) within any state must be in accordance with a formula developed by each state and approved by the Secretary.

Subsection (g) requires the Secretary to submit a report to Congress detailing for each state the amount obligated for federal-aid highways and highway safety construction programs, and for other purposes.

Subsection (h) allows funds made available for transit projects or transportation planning under this title to be transferred to and administered by the Secretary in accordance with chapter 53 of title 49. Paragraph (3) allows the Secretary to transfer funds apportioned or allocated under this title to the state, to another state or the Federal Highway Administration (FHWA). A state must have written consent from the appropriate metropolitan planning organization if the state is to transfer funds under the surface transportation program.

Subsection (i) directs the Secretary, before appropriating authorized sums, to deduct \$840,000 for administrative, research, technical assistance, and training expenses to carry out the recreational trails program under 23 U.S.C. §206, for each fiscal year.

*Sec. 1105. Federal-aid systems.*

This section amends 23 U.S.C. §103(b) to incorporate modifications to the National Highway System, inserting a mention of commerce and border crossings, and further modifies the components of the National Highway System. A new paragraph (6) is added that requires each state to implement a risk-based state asset management plan for managing all infrastructure assets in the right-of-way corridor with specific requirements for such plan. A state asset management plan shall include strategies leading to a program of projects that will make progress toward achievement of the national goals for infrastructure condition and performance of the National Highway System. If a state fails to implement such a plan consistent with this section, the federal share payable on account of any project or activity is changed to 70 percent under 23 U.S.C. §119.

*Sec. 1106. National Highway System program.*

This section amends 23 U.S.C. §119 to require the Secretary to establish the National Highway System program and define its purpose. Only facilities located on the National Highway System are eligible for program funding. Eligible projects must: be located on an eligible facility, support progress towards national performance goals, be consistent with requirements of 49 U.S.C. §5203 and §5204, and satisfy an acceptable project purpose. Project sponsors have the authority to give preference to mitigating environmental impacts through the use of a mitigation bank or another third-party mitigation arrangement.

The federal share of the cost of a project payable from funds made available to carry out this section shall be determined under 23 U.S.C. §120(b).

*Sec. 1107. Surface transportation program.*

Subsection (a) amends 23 U.S.C. §133(b) by striking paragraphs (1), (14) and (15). New paragraphs (1) through (4) establish the eligible projects under the surface transportation program.

Subsection (b) amends 23 U.S.C. §133(c) by prohibiting projects funded by this program to be undertaken on roads functionally classified as local or rural minor collectors unless the roads were on a federal-aid highway system in 1991.

Subsection (c) repeals 23 U.S.C. §133(d)(2). 23 U.S.C. §133(d)(3) is amended by changing the percentage of funds that is required to be spent on urbanized areas with population over 200,000. Paragraph (E) requires a state to consult with the local rural planning organization, if any, before obligating funding for projects in a population area of 5,000 to 200,000.

Subsection (d) amends 23 U.S.C. §133(e)(3) to require the Secretary to make payments to a state for costs incurred by the state for the surface transportation program.

Subsection (e) amends 23 U.S.C. §133(f)(1) by inserting the correct fiscal years.

Subsection (f) allows up to 15 percent of the amounts required to be obligated by a state to be obligated on roads functionally classified as minor collectors. The Secretary has the authority to suspend this application if it is being used excessively by the state.

The surface transportation program supports a broad range of eligible projects. As such, the Committee encourages state departments of transportation to consider the needs of communities of all sizes and the demand for all types of eligible projects when deciding which projects to fund through the surface transportation program.

*Sec. 1108. Congestion mitigation and air quality improvement program.*

Subsection (a) amends 23 U.S.C. §149(b) by setting requirements for the obligation of funds. A project qualifies if the project is located in an area of the state that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act. A project also qualifies if it is determined the project will contribute to the attainment of a national ambient air quality standard, the maintenance of a national ambient air quality standard in a maintenance area, has been approved in a state implementation plan pursuant to the Clean Air Act, mitigates congestion, or is found to reduce travel time delay, vehicle miles traveled or fuel consumption.

A state may obligate funds for a project or program that will result in the construction of new capacity available to single occupant vehicles only if it will help mitigate congestion or improve air quality. Projects for PM-10 nonattainment areas and projects that establish or support the establishment of electric vehicle battery charging facilities also qualify. In addition, projects for electric vehicle infrastructure that establish electric vehicle battery charging facilities qualify and may be carried out by a state, local agency, or public-private partnership.

Subsection (b) amends 23 U.S.C. §149 by striking subsection (f).

*Sec. 1109. Equity bonus program.*

This section amends 23 U.S.C. §105 to apportion among the states amounts sufficient to ensure that each state receive a minimum return on the dollars that state contributes to the Highway Trust Fund.

For each of fiscal years 2013 through 2016, the percentage referred to in subsection (a) for each state shall be a minimum of 94 percent of the quotient obtained.

For each fiscal year, the Secretary shall apportion among the states amounts sufficient to ensure that each state receives a combined total apportionment for the programs in subsection (a)(2) and the congestion mitigation and air quality improvement program that equals or exceeds the combined amount that the state was apportioned for fiscal year 2012 for the programs specified in 23 U.S.C. §105(a)(2). In determining a state's combined apportionment for fiscal year 2012, the Secretary shall not consider amounts apportioned to the state for such fiscal year under section 111(d)(1) and (3) of the Surface Transportation Extension Act of 2011, Part II (PL 112-30).

The manner by which the Secretary apportions the amounts made available through this program to programs in each state is provided. The Secretary shall apportion the amounts made available under this section that exceed \$2,639,000,000 so that the amount apportioned to each state for programs in this section is equal to the amount determined by multiplying the amount to be apportioned to such state under this section. No set-aside under 23 U.S.C. §104(f) applies to funds allocated under this section.

There are authorized to be appropriated out of the Highway Trust Fund, subject to paragraphs (2) and (3), \$3,900,000,000 for each of fiscal years 2013 through 2016.

If the amounts in paragraph (1) are below the minimum percentage of total apportionments required for each fiscal year, the amount will be increased by the amount of the shortfall to meet the minimum requirement. If the amounts in paragraph (1) are above the minimum percentage of total apportionments required for each fiscal year, the amount will be decreased by the amount of the surplus.

*Sec. 1110. Project approval and oversight.*

Subsection (a) amends 23 U.S.C. §106(c)(1) to allow states to assume the responsibility of the Secretary for design, plans, specifications, estimates, contract awards, and inspections for projects on the National Highway System.

Subsection (b) amends 23 U.S.C. §106(e) by requiring a state to provide a value engineering analysis for projects on the National Highway system with a total estimated cost of \$50,000,000 and bridge projects on the National Highway System with a total estimated cost of

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\$40,000,000. The requirements of subsection (e) do not apply to projects delivered under a design-build method.

Subsection (c) amends 23 U.S.C. §106(h)(3) to require the financial plan to assess the appropriateness of a public-private partnership to deliver a project.

Subsection (d) amends 23 U.S.C. §106 by adding subsection (j). This new subsection requires the Secretary to encourage the use of advanced modeling technologies during environmental, planning financial management, design, simulation, and construction processes for projects that receive federal funding.

*Sec. 1111. Emergency relief.*

Subsection (a) amends 23 U.S.C. §125(d) to allow the Secretary to expend funds from the emergency fund for repair or reconstruction of federal-aid highways. The maximum project cost under this section cannot exceed the cost of repair or construction of a comparable facility. Debris removal is an eligible expense under certain circumstances. The U.S. Territories may not receive more than \$20,000,000 in a single fiscal year. Actual and necessary costs of maintenance and operation of ferryboats and additional transit services providing temporary substitute highway traffic service may be expended from the emergency fund. The Governor or President must declare an emergency in order to receive assistance under this section and the state must provide a list of projects and costs to the Secretary no later than two years after an emergency declaration.

Subsection (b) amends subsection (e) to update emergency relief to include the repair or reconstruction of tribal roads, federal lands highways, and other federally owned roads that are open to public travel, even if the roads are not on federal-aid highways. "Open to public travel" is defined.

Subsection (c) requires a rulemaking to update regulations governing the emergency relief program from the Secretary.

Subsection (d) requires the Secretary to take steps to improve the emergency relief program implementation.

*Sec. 1112. Uniform transferability of federal-aid highway funds.*

This section amends 23 U.S.C. §126 to allow a state to transfer up to 25 percent of the state's apportionments under the National Highway System program, the surface transportation program, and the highway safety improvement program for a fiscal year to any other apportionment of the state under any of those programs for that fiscal year. No funds may be transferred under this section that are subject to 23 U.S.C. §104(f) or 23 U.S.C. §133(d)(3).

*Sec. 1113. Ferry boats and ferry terminal facilities.*

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This section amends 23 U.S.C. §147 by striking subsections (c), (d), and (e) and inserting a new subsection (c). Subsection (c) establishes the formula to determine what each eligible state shall receive to carry out this program for each fiscal year.

*Sec. 1114. National highway bridge and tunnel inventory and inspection program.*

Subsection (a) requires the Secretary to inventory all bridges and tunnels and identify those that are structurally deficient or functionally obsolete. A risk-based priority must then be established for the structurally deficient or functionally obsolete bridges and tunnels taking multiple safety and public use factors into consideration. The cost for replacing the structurally deficient or functionally obsolete structure must be determined.

Subsection (b) requires the Secretary to establish and maintain inspection standards for the proper safety inspection and evaluation of all highway bridges and tunnels in the inventory. The Secretary must annually review state compliance standards, and in instances of noncompliance, allow the state to develop a corrective action plan. If the issue goes unresolved, a penalty shall be handed down to the state.

Subsection (c) directs the Secretary to establish a program designed to train personnel to carry out highway bridge and tunnel inspections.

Subsection (d) allows the Secretary to use funds from 23 U.S.C. §104(a) and 23 U.S.C. §503; a state to use from funds from 23 U.S.C. §104(b)(1), §104(b)(3), and §104(b)(5); an Indian tribe to use funds from 23 U.S.C. §502; and a federal agency to use funds from 23 U.S.C. §503 to carry out this section.

*Sec. 1115. Minimum investment in highway bridges.*

Subsection (a) requires states with a total highway bridge deck area on the National Highway System that is more than 10 percent structurally deficient to spend 10 percent of their allocation under 23 U.S.C. §104(b)(1) and §104(b)(3) on eligible projects on highway bridges. An amount equal to 110 percent of the amount that the state was required to expend for fiscal year 2009 on projects under 23 U.S.C. §144(f)(2) shall be available to the states only for eligible projects not on federal-aid highways if the Secretary determines for the fiscal year that more than 15 percent of the total deck area of highway bridges not on federal-aid highways in the state is located on highway bridges not on federal-aid highways that have been classified as structurally deficient. States that have more than 2,000 structurally deficient highway bridges not on federal-aid highways are also eligible.

Subsection (b) amends 23 U.S.C. §217(e) regarding safety accommodations when rehabilitating and replacing a bridge with bicycle lanes.

*Sec. 1116. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.*



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This section amends 23 U.S.C. §164(a) to allow states to qualify for this section if they have a state law to suspend all repeat offender intoxicated drivers of their driving privileges for not less than 1 year or suspend driving privileges for 1 year with limited driving privileges permitted if an ignition interlock device is installed on the motor vehicle owned or operated by the individual. This section does not mandate that states adopt ignition interlock laws.

*Sec. 1117. Puerto Rico highway program.*

23 U.S.C. §165 is amended by striking subsections (a) and (b) and inserting two new subsections. The Secretary is required to allocate funds made available for the fiscal year to carry out a highway program in the Commonwealth of Puerto Rico.

*Sec. 1118. Appalachian development highway system.*

This section requires the Secretary to apportion funds to the Appalachian development highway system program. Funds for this program are made available for obligation and administration. The federal share of the cost of any project under this section must be in accordance with 40 U.S.C. §14501, to construct highways and access roads. Funds will remain available until expended. This section also allows states to use toll credits for the non federal share for projects on the Appalachian development highway system.

*Sec. 1119. References to Mass Transit Account.*

Any reference to the Mass Transit Account in 23 U.S.C. or 49 U.S.C. shall refer to the Alternative Transportation Account.

SUBTITLE B – INNOVATIVE FINANCING

*Sec. 1201. Transportation Infrastructure Finance and Innovation.*

Subsection (a) modifies the definitions for this section.

Subsection (b) makes the following changes to 23 U.S.C. §602:

*23 USC §602. Applications and determinations of eligibility.*

*“23 USC §602(a). Project applications.*

This subsection allows a state, local government, agency of a state or local government, public authority, private party to a public-private partnership, or any other legal entity to submit an application for financial assistance. Applicants may request assistance to be provided under a master credit agreement.

*“23 USC §602(b). Eligibility.*

This subsection sets the criteria a project must meet in order to receive financial assistance. The project must be able to demonstrate and satisfy the following: planning and programmatic requirements, creditworthiness, dedicated revenue sources, regional significance, public sponsorship of private entities, and project readiness, among other factors.

*"23 USC §602(c) Preliminary rating opinion letter.*

This subsection requires each applicant to provide a preliminary opinion letter from a rating agency showing the potential to achieve an investment-grade rating.

*"23 USC §602(d). Approval of applications and funding.*

This subsection establishes an approval process for the Secretary for applications and project funding.

*"23 USC §602(e). Procedures for determining project eligibility.*

This subsection establishes procedures for approval or disapproval of applications based on whether the projects meet the criteria specified in subsection (b)(2).

*"23 USC §602(f). Application approval.*

This subsection provides that approved applications qualify the project for execution of a term sheet establishing a conditional commitment of credit assistance.

*"23 USC §602(g). Federal requirements.*

This subsection sets the federal requirements the project must comply with in order to receive federal funding.

*"23 USC §602(h). Development phase activities.*

This subsection allows any approved credit instrument to finance 100 percent of the cost of the development phase activities if the total amount of the credit instrument does not exceed the maximum amount prescribed in this chapter.

Subsection (c) of section 1201 amends 23 U.S.C. §603. Section 603(a)(1) is amended by adding a reference to master credit agreements. Secured loans may not exceed 49 percent of the anticipated eligible project costs. The paragraph relating to how a secured loan shall be payable is modified. The paragraph relating to nonsubordination in the event of bankruptcy, insolvency or liquidation is modified.

Subsection (d) of section 1201 amends 23 U.S.C. §604 to conform to sections amended by this Act. Secured loans may not exceed 49 percent of the anticipated eligible project costs. The paragraph relating to how a secured loan shall be payable is modified. The paragraph

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relating to nonsubordination in the event of bankruptcy, insolvency or liquidation is modified. The percentage referred to in subsection (b)(10) is amended to 49 percent.

Subsection (e) of section 1201 amends 23 U.S.C. §605 by adding a new subsection (e) to require the Secretary to implement procedures and measures to expedite the approval process.

Subsection (f) of section 1201 amends 23 U.S.C. §608(a)(1). Subsection (a)(1) authorizes \$1,000,000,000 for each of fiscal years 2013 through 2016 to be appropriated out of the Highway Trust Fund to carry out this chapter. \$3,250,000 is appropriated for each of fiscal years 2013 through 2016 for administrative costs to carry out this chapter. The amount of budget authority administered to a master credit agreement is limited to 15 percent. A new subsection (c) is added to require the Secretary to publish a notice in the Federal Register and notice to applicants. Applicants are allowed to pay the subsidy amount other than budget authority in a fiscal year. A new subsection (d) is added to require the Secretary to distribute any unallocated funds at the end of a fiscal year. The remaining budget authority must be distributed to the states via formula.

*Sec. 1202. State infrastructure bank program.*

This section amends 23 U.S.C. §610(d) to increase the amount a state can deposit into the highway account of their state infrastructure bank from 10 percent of the funds apportioned to the state to 15 percent. State infrastructure banks may not exceed 100 percent of the funds capitalized under 23 U.S.C. §611 for each of fiscal years 2013 through 2016.

*Sec. 1203. State infrastructure bank capitalization.*

This section amends chapter 6 of 23 U.S.C. by adding a new section, section 611, to require the Secretary to apportion the funds to carry out this section on October 1 of each fiscal year. States must make capitalization grants to their state's infrastructure bank with their apportioned funding. Beginning in FY 2015, the Secretary shall reapportion the remaining funds among states that do not obligate the funds to the other states that used the funds to capitalize their state's infrastructure bank.

A recalculation under 23 U.S.C. §105 is precluded for funds reapportioned under subsection (c). All the requirements in 23 U.S.C. §610(h) apply to any funds apportioned under this section. \$750,000,000 is authorized to be appropriated out of the Highway Trust Fund for each of fiscal years 2013 through 2016. These funds are available for obligation and administration in the same manner as if the funds were apportioned under chapter 1.

*Sec. 1204. Tolling.*

Subsection (a) amends 23 U.S.C. §129(a) to permit federal participation in toll projects in the same manner as construction of toll-free highways. Conditions of facility ownership are set. Limitations on how toll revenues can be used are set. Public authorities with jurisdiction over a toll facility must conduct an annual audit of toll facility records to verify adequate maintenance

and compliance. If found noncompliant, the Secretary has the right to require the authority to discontinue collecting tolls until a compliance plan is agreed upon.

Public authorities with jurisdiction over a high occupancy vehicle facility may undertake reconstruction, restoration, or rehabilitation on the facility. They may levy tolls on vehicles, excluding high occupancy vehicles, using that facility if certain requirements are met. The authority has the right to set the toll rate and exempt or designate special tolls for certain classes of vehicles. The federal share payable for a project is a percentage determined by the state but cannot exceed 80 percent.

States are given the ability to loan to a public or private entity constructing a toll facility, or non-toll facility, with a dedicated revenue source that equals or partly equals the federal share for the project. States must pass a law to permit tolling, if there is no law already in place, before they are permitted to toll.

Subsection (b) requires all toll facilities on the federal-aid highway system to implement technologies that provide for the interoperability of electronic toll collection programs within two years of enactment.

#### *Sec. 1205. HOV facilities.*

This section amends 23 U.S.C. §166. Section 166(b)(5) is amended by extending the date for low emission and energy efficient vehicles use of HOV facilities. Section 166(c)(3) is amended to subject toll revenue to the requirements of section 129(a)(3). Section 166(d)(2) is amended to add a new paragraph to the end that requires the state to maintain operating performance with the minimum average operating speed performance standard.

#### *Sec. 1206. Public-private partnerships.*

This section requires the Secretary to compile best practices on how the government can work with the private sector in the development, financing, construction, and operation of transportation facilities. Best practices must include policies and techniques to ensure that the interests of the traveling public are met and the government is protected in any agreement with the private sector. The Secretary may provide technical assistance on public-private partnerships to states, upon request. The Secretary is required to develop standard public-private partnership model contracts for the most popular types of public-private partnerships for use by states and local governments.

### SUBTITLE C – HIGHWAY SAFETY

#### *Sec. 1301. Highway safety improvement program.*

This section amends 23 U.S.C. §148, the highway safety improvement program.

Subsection (a) provides definitions for terms used in this section.

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Subsection (b) directs the Secretary to carry out a highway safety improvement program.

Subsection (c) requires states to have a highway safety improvement program in order to receive funds apportioned under this section. Each state must have a highway safety plan as part of their highway safety program that is developed in consultation with transportation stakeholders, sets highway safety goals, identifies highway safety projects and is consistent with performance measures established under title 49, U.S.C. Each highway safety plan must consider hazardous roadway features, determine priorities for the correction of such features, identify the 100 most dangerous roads in the state, and evaluate the progress made each year in achieving state safety goals. Eligible projects under this program may be carried out on any public road, pathway or trail, may improve the safety data system of the state, may maintain minimum levels of retroreflectivity, or be consistent with the FHWA's publication titled "Highway Design Handbook for Older Drivers and Pedestrians". Funds apportioned to a state under section 104(b) may not be used to carry out a program to purchase, operate or maintain an automated traffic enforcement system. The definition of "automated traffic enforcement system" includes enforcement systems such as red light cameras, speed cameras, or automated license plate readers. This section is not intended to diminish or preclude enforcement of commercial motor vehicle regulations under title 23 or title 49.

Subsection (d) allows states to flex not more than 10 percent of their apportioned funds from this section for safety projects under any other section.

Subsection (e) requires each state to have in effect, as part of their highway safety improvement program, a safety data system that collects and maintains safety data on all public roads in that state.

Subsection (f) requires all highway safety plans and reports submitted by states under this section to be available to the public.

Subsection (g) prohibits any reports or data compiled under this section to be admissible as evidence in a federal or state court proceeding.

Subsection (h) sets the federal cost share for a project carried out under this section at 90 percent.

The Secretary shall issue guidance to states on the appropriate conditions under which the use of fixed or portable electronic messaging signs that relay work zone delay, travel times, and warning information to motorists should be used.

#### *Sec.1302. Railway-highway crossings.*

Subsection (a) amends 23 U.S.C. §130(d) by requiring each state to make surveys and schedules available to the public.

Subsection (b) amends 23 U.S.C. §130 by adding a new subsection (m) which requires each state to submit a report to the Secretary on the 10 railway-highway crossings in the state

that have the greatest need for safety improvements, an action plan to address such safety needs, and a list of projects carried out at such crossings over the previous two years. All reports must be posted on the United States Department of Transportation's (USDOT) and each state's department of transportation website. Reports and data compiled under this subsection are not admissible as evidence in a federal or state court proceeding. The Secretary may withhold funding under section 130 if a state fails to comply with this subsection.

*Sec. 1303. Highway worker safety.*

Subsection (a) directs the Secretary to modify section 630.1108(a) of title 23, Code of Federal Regulations, to ensure that highway construction workers are properly separated from highway traffic with proper barriers.

Subsection (b) directs the Secretary to modify regulations issued pursuant to section 1402 of SAFETEA-LU that would allow fire services personnel to comply with apparel requirements set forth in such regulation.

**SUBTITLE D – FREIGHT MOBILITY**

*Sec. 1401. National Freight Policy.*

Subsection (a) directs the Secretary to develop a 5-year National Freight Policy in consultation with public and private sector freight stakeholders, which is to include representatives of ports, shippers, carriers, freight-related associations, the freight industry workforce, state transportation departments, and local governments. The Committee believes the inclusion of local governments as a stakeholder to be consulted in the development of the National Freight Policy should be interpreted to include local air quality agencies where appropriate.

The Secretary should work through the Office of Freight Management and Operations in FHWA to develop the National Freight Policy under this section. In developing the National Freight Policy, the Office of Freight Management and Operations should advise the Secretary on freight issues; facilitate communication among public and private stakeholders with respect to freight issues and provide recommendations to the Secretary on federal, state, and local public and private funding sources for projects with respect to freight.

Subsection (b) directs the National Freight Policy to specify goals, objectives, and milestones with respect to the expansion of freight transportation capacity and the improvement of freight transportation infrastructure. The policy is to identify strategies, protocols, and processes to help achieve the goals and objectives and implement the policy.

Subsection (c) directs the Secretary, in developing the National Freight Policy, to consider the goals of investing in freight infrastructure to strengthen economic competitiveness, meeting standards, expanding to meet future demand, improving safety, implement new technologies, and spurring performance and innovation, among other goals.

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Subsection (d) requires the Secretary to include the National Freight Policy in the National Strategic Transportation Plan developed under 49 U.S.C. §5205.

Subsection (e) directs the Secretary to make changes to the commodity flow survey conducted by the Bureau of Transportation Statistics that will reduce identified freight data gaps and deficiencies and assist in forecasting transportation demand.

*Sec. 1402. State freight advisory committees.*

This section directs the Secretary to encourage states to establish a freight advisory committee consisting of public and private sector freight stakeholders, which include representatives of ports, shippers, carriers, freight-related associations, the freight industry workforce, the state's transportation department, and local governments. The Committee believes the inclusion of local governments in the list of stakeholders to be included in state freight advisory committees should be interpreted to include local air quality agencies where appropriate. The state freight advisory committee is required to advise the state on freight priorities and serve as a forum of discussion for state freight transportation decisions, among other roles.

*Sec. 1403. State freight plans.*

This section directs the Secretary to encourage each state to develop a freight plan that provides for the state's immediate and long-range planning activities and investments with respect to freight. The freight plan may be separate or part of the statewide strategic long-range transportation plan.

*Sec. 1404. Trucking productivity.*

Under current federal law, there are weight limits for trucks on the interstate system as well as width and length limits on the National Network (a system of approximately 209,000 miles of roads including the interstate system specifically designated in federal regulations). In addition to these general standards, federal law includes provisions, exemptions and variations applicable to particular states, routes, vehicles, or operations creating a patchwork of restrictions across the United States. This section makes changes to the current size and weight limits in order to increase the efficiency of freight movement in the United States.

This section authorizes the Secretary to carry out a pilot program to allow, by special permit, the operations of a vehicles with gross weight of up to 126,000 pounds on no more than three segments of an interstate highway that can be contiguous up to 25 miles each. The Committee believes, in order to show geographic and product diversity of commodities, an example of such diversity would be the hauling of coal in West Virginia and timber in Minnesota.

This section authorizes states to issue special permits for overweight vehicles during a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. This section provides a weight limit exemption for emergency vehicles. This

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section requires states to allow access on the National Network and reasonable access highways for double trailer trucks with 33-foot trailers and single trailer trucks with 53-foot trailers. This section prohibits a state from imposing a length limitation of less than 80 feet on an automobile transporter, a length limitation of less than 82 feet on light- and medium-duty trailer manufacturers hauling trailers in a double configuration, or a kingpin-to-rear axle distance of 46 feet on livestock haulers. This section allows buses purchased after October 1, 2012, with a device for carrying luggage to operate with lengths up to 47 feet. This language applies to bus length only and should not be interpreted to be an implied exemption to weight limitations.

*Sec. 1405. Study with respect to truck sizes and weights.*

This section requires the Secretary to conduct a 3-year study with respect to truck sizes and weights. The Secretary shall examine the effect on principal arterial routes and National Highway System intermodal connectors that allowing nationwide operation of each covered truck configuration would have.

This section requires the Secretary to evaluate the effect on safety of allowing specified truck configurations to operate, to estimate the full cost responsibility associated with each truck, to examine the ability of a representative sample of regions to meet repair and reconstruction needs, to estimate the extent to which freight would be diverted from other surface transportation modes to principal arterial routes and National Highway System intermodal connectors.

*Sec. 1406. Maximum weight increase for idle reduction technology on heavy duty vehicles.*

This section increases the maximum gross vehicle weight limit and the axle weight limit for any heavy duty vehicle equipped with idle reduction technology from 400 pounds to 550 pounds.

SUBTITLE E – FEDERAL LANDS AND TRIBAL TRANSPORTATION

*Sec. 1501. Federal lands and tribal transportation programs.*

This section replaces sections 201, 202, 203, and 204 of title 23 U.S.C. with section 201, general provisions, section 202, the federal lands transportation program and section 203, the tribal transportation program.

23 U.S.C. §201 is amended by creating two new programs; the tribal transportation program and the federal lands transportation program. Subsection (a) establishes guidelines for the programs and requires the programs to be administered by the Secretary of Transportation, in conjunction with the other Secretaries of the appropriate land management agencies. The Secretary charged with administering funds under the programs can enter into contractual obligations for engineering or related work for the design, development, and acquisition associated with a project or plans, specifications, and estimates associated with a project.

The Secretary shall direct not less than 10 percent of any unused obligation authority for 23 U.S.C. §202 to the competitively awarded high priority projects program established under



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the tribal funding formula in 23 U.S.C. §202. The federal share payable for a project carried out under 23 U.S.C. §202 and §203 shall be 100 percent. The federal share payable for operating expenses under 23 U.S.C. §203 shall be 50 percent and the federal share payable for operating expenses under 23 U.S.C. §202 shall be consistent with the historical federal share before date of enactment of this Act.

Subsection (e) requires the Secretary, in consultation with the other federal land management agencies, to establish transportation planning procedures for tribal transportation facilities and federal lands transportation facilities. As part of the transportation planning process, the Secretary shall develop a transportation improvement program consistent with the requirements of this subsection. The Secretary may use up to 5 percent of funds made available for 23 U.S.C. §203 for implementing activities described in this section and transportation planning activities.

The Secretary establishes the tribal transportation program under 23 U.S.C. §202 to distribute funding to tribes for projects described in subsection (b). The Secretary has the authority to enter into contracts with states and tribes with respect to carrying out this section. Paragraph (6) limits the amount the Secretary of Transportation or the Secretary of the Interior may spend on program management, oversight, and administration to five percent of section 202 funds. With the consent of a tribe, the Secretary or a tribe may use funding under this section for maintenance and amount that does not exceed 25 percent of such funds or \$500,000.

The Bureau of Indian Affairs shall maintain primary responsibility for road maintenance programs on tribal reservations. The Secretary of the Interior shall ensure funds made available for maintenance of tribal transportation facilities shall be supplementary. States and tribes may enter into a road maintenance agreement. States, counties and other political subdivisions of a state shall be accepted when constructing or improving a tribal transportation facility. States may provide a portion of their apportioned funds under chapter I of title 23 U.S.C. to a tribe for projects on a tribal transportation facility. Construction of a project under 23 U.S.C. §202 shall be performed through a competitively awarded contract.

Funds authorized to be appropriated under 23 U.S.C. §202 shall be allocated among the tribes in accordance with the funding formula established under this section. The Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes pursuant to the Tribal Transportation Allocation Methodology described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act). Nothing in this section should be construed to require the funding formula maintained by the Secretary of the Interior, as of date of enactment of this Act, to be altered or amended. The Secretary of the Interior shall maintain a national tribal transportation facility inventory that contains eligible transportation facilities under the tribal transportation program and shall accept into the inventory facilities submitted to the Secretary of the Interior by tribes no later than September 30, 2012 and every two years after such date. The inventory shall include facilities described in paragraph (B). Bridges included in the inventory shall be included on the national bridge inventory under 23 U.S.C. §151.

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The Secretary of the Interior shall maintain regulations governing the funding formula. The basis for the funding formula shall be consistent with currently established procedures under such formula. As part of the formula, the Secretary shall continue the high priority projects program established prior to date of enactment of this Act. No later than 30 days after funds are made available to the Secretary or Secretary of the Interior for this section, the funds shall be distributed to and available for tribes in accordance with the funding formula. A tribe may enter into a contract and agreement with funds made available under this section if they meet the health and safety requirements under paragraph (6). Contracts and agreements with tribes for program costs shall be made pursuant to paragraph (7). Contracts and agreements with tribes for tribal transportation facility projects and programs shall be made pursuant to paragraph (8).

Subsection (d) allows the greater of two percent or \$35,000 of funds under this section to be available for transportation planning.

Subsection (e) requires the Secretary to ensure that funds made available for a project under this section are supplementary to and not in lieu of the obligation of fair and equitable share of funds apportioned to such state under 23 U.S.C. §104.

Subsection (f) allows a tribe to be eligible for competitive or discretionary grants under title 23 U.S.C. or chapter 53 of title 49 U.S.C.

23 U.S.C. §203, the federal lands transportation program, is established to distribute funding to the federal land management agencies. Funding for the program would be distributed to the National Park Service, the Forest Service, the United States Fish and Wildlife Service, the Corps of Engineers, and the Bureau of Land Management. Of the amounts authorized to be appropriated for the federal lands transportation program, the National Park Service, the Forest Service, and the United States Fish and Wildlife Service shall receive a minimum apportionment. The remaining funding is distributed through an application process by each federal land management agency.

The Secretary of Transportation considers the extent to which each agency addresses transportation goals, including performance management as appropriate; addresses the resource management goals of the Secretaries of the respective federal land management agencies; and supports high-use federal recreation sites or economic generators. This section requires the federal land management agencies to maintain inventories of their transportation facilities that provide access to high-use federal recreation sites or are administered by the appropriate agency.

#### *Sec. 1502. Definitions.*

Subsection (a) repeals definitions in 23 U.S.C. §101(a).

Subsection (b) adds definitions for "Federal land management agency", "Federal lands", "Federal lands highway", "Federal lands transportation facility", "tribal road", and "tribal transportation facility" to 23 U.S.C. §101(a).

#### *Sec. 1503. Conforming amendments.*

Subsection (a) amends 23 U.S.C. §120 by replacing the terms repealed in section 1502 of this Act with new terms added in 23 U.S.C. §101(a).

Subsection (b) amends 23 U.S.C. §138(a) by replacing the reference to 23 U.S.C. §204 with a reference to 23 U.S.C. §203.

Subsection (c) amends 23 U.S.C. §139(j)(3) by changing the paragraph heading and replacing the reference to 23 U.S.C. §204 with a reference to 23 U.S.C. §202 and §203.

Subsection (d) amends 23 U.S.C. §217(c) by changing the subsection heading and replaces the reference to term repealed in section 1502 of this Act with new terms in 23 U.S.C. §101(a).

Subsection (e) amends 23 U.S.C. §315 by replacing the reference to 23 U.S.C. §204(f) and §205(a) with a reference to 23 U.S.C. §203(b)(4) and §205(a).

*Sec. 1504. Repeals; effective date.*

Subsection (a) repeals 23 U.S.C. §204 and §214.

Subsection (b) clarifies that an amendment or repeal made by this subtitle shall not affect funds apportioned or allocated before the effective date.

*Sec. 1505. Clerical amendment.*

This section amends the analysis for chapter 2.

*Sec. 1506. Tribal transportation self-governance program.*

This section creates a new 23 U.S.C. §207, the tribal transportation self-governance program.

Subsection (a) requires the Secretary to establish the tribal transportation self-governance program.

Subsection (b) establishes the requirements that a tribe must meet in order to be eligible to participate in the program. The tribe must officially make a request to the Secretary to participate in the program and demonstrate financial stability and financial management capability for the preceding 3 fiscal years. For a tribe to meet the financial stability and financial management capability requirements, they must have had no uncorrected significant and material audit exceptions in the annual audit of the tribe's self-determination contracts or self-governance funding agreements with any federal agency.

Subsection (c) requires a compact with the Secretary and a tribe in order for a tribe to participate in the program. The compact establishes the general terms of the governmental

relationship between the tribe and the United States. The compact can be amended only by mutual agreement.

Subsection (d) requires the Secretary to enter in to an annual funding agreement with a tribe as part of the compact under subsection (c). The funding agreement authorizes the tribe to plan, conduct, consolidate, administer, and receive full tribal share funding and funding to tribes from discretionary grants for all programs, services, functions, and activities that are made available to the tribe for the tribal transportation program and other programs administered by the Secretary. If a state elects to provide a tribe with funds from the state's allocation under chapter I of title 23 for an eligible project under 23 U.S.C. §202, such funds shall be included in the funding agreement. If a state provides funds to a tribe through the funding agreement, the state is not responsible for constructing, maintaining, administering, or supervising a project using such funds. If a state provides funds to a tribe through the funding agreement, the tribe is responsible for constructing, maintaining, administering, or supervising a project using such funds. Pending a mutual agreement, the funding agreement shall include provisions for flexible and innovative financing. The Secretary may issue regulations on such flexible and innovative financing provisions but if no regulations are issued the provisions shall be consistent with agreements under contracts and agreements with tribes for tribal transportation programs and projects or regulations issued by the Department of the Interior relating to flexible financing.

Tribes shall be eligible to participate in any competitive or discretionary grant program under transportation programs that states are allowed to participate in. The terms of a funding agreement shall identify programs, services, functions, and activities to be performed or administered by a tribe. All funding agreements established shall remain in effect until a subsequent funding agreement is executed. The Secretary cannot revise, amend, or add terms to a new or subsequent funding agreement without tribal consent unless such terms are required by federal law.

Subsection (e) authorizes a tribe under a funding agreement to redesign or consolidate programs, services, function, and activities under the funding agreement. A tribe may reallocate or redirect funds for such programs, services, functions, and activities if the funds are expended on projects in the transportation improvement program and used with appropriations Acts and other statutory limitations. Discretionary funds received by a tribe shall be used for the purposes for which the funds were authorized. A tribe may retrocede to the Secretary programs, services, functions, or activities in a compact or funding agreement. Such agreed upon retrocession shall be effective within the timeframe described in the compact or funding agreement or if no timeframe exists the earlier of 1 year after the date of submission of the request or the date on which the funding agreement expires or such date as agreed upon by the parties.

Subsection (f) establishes what official in the Department is allowed to make a decision that constitutes final agency action. The Secretary is authorized to terminate the compact or funding agreement and reassume the remaining funding associated with the reassumed programs, services, functions and activities under a compact or funding agreement if the Secretary finds imminent jeopardy to a trust asset, natural resource, or public safety and health that is caused by an act or omission of the Indian tribe and that arises out of a failure to carry out the compact or funding agreement or gross mismanagement with respect to funds or programs transferred to the

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tribe under the compact or funding agreement. The Secretary shall not terminate a compact or funding agreement unless there is written notice and a hearing on the record to the tribe subject to the compact or funding agreement and the tribe has not taken corrective action to remedy the mismanagement of funds. The Secretary may immediately terminate the compact or funding agreement if the Secretary finds imminent substantial and irreparable jeopardy to a trust asset, natural resource, or public health and safety and the jeopardy arises from the failure to carry out the compact or funding agreement. The Secretary bears the burden of proof for a termination of a compact or funding agreement.

Subsection (g) requires tribes receiving funds under this program to apply cost principles under the applicable Office of Management and Budget circular.

Subsection (h) establishes the procedures for the transfer of funds under the program. Construction projects carried out by a tribe under this program shall be pursuant to standards set forth in applicable regulations or approval by the Secretary and shall be monitored by the Secretary.

Subsection (j) requires the Secretary to interpret laws, executive orders, and regulations that will facilitate the inclusion of programs, services, functions, and activities as part of the compact or funding agreement and implementation of such agreements. A tribe may request a waiver for a regulation pursuant to a compact or funding agreement. The Secretary shall approve or deny a waiver request within 90 days of tribal notice. The Secretary may deny a waiver request only if the Secretary finds the regulation may not be waived because a waiver is prohibited by federal law. If no approval or rejection of a waiver request is issued by the Secretary within 90 days, the request is deemed approved.

Subsection (k) requires the Secretary to maintain current program and funding agreements or enter into new agreements upon the election of a tribe.

Subsection (l) determines which provisions in the Indian Self-Determination and Education Assistance Act apply to compacts or funding agreements under this program.

Subsection (m) establishes the definitions for 'compact', 'department', 'eligible Indian tribe', 'funding agreement', 'Indian tribe', 'program', 'Secretary', and 'transportation programs'. Definitions in sections 4 and 505 of the Indian Self-Determination and Education Assistance Act apply, unless except as otherwise provided.

Subsection (n) requires the Secretary to establish regulations to carry out this section no later than 90 days after enactment of this Act. All regulations for this section shall be posted in the Federal Register. The authority of the Secretary to issue regulations under this section shall expire 30 months after date of enactment. The expiration of promulgated regulations may be extended up to 180 days if a committee cannot meet the deadline. A negotiated rulemaking committee shall be established with members of the federal and tribal governments. If regulations are not promulgated, this section's effect shall not be limited. A tribe in a compact or funding agreement under this section shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the DOT, except regulations under this section.

## SUBTITLE F – PROGRAM ELIMINATION AND CONSOLIDATION

### *Sec. 1601. Program elimination and consolidation.*

Subsection (a) directs that a repeal or amendment made by this section will not affect funds apportioned or allocated before the effective date of repeal.

- 23 U.S.C. §110, Revenue Aligned Budget Authority, is repealed.
- 23 U.S.C. §117, High Priority Projects Program, is repealed.
- 23 U.S.C. §118(c), Set Asides for Interstate Discretionary Projects, is repealed.
- 23 U.S.C. §136, Control of Junkyards, is repealed.
- 23 U.S.C. §144, Highway Bridge Program, is repealed.
- 23 U.S.C. §152, Hazardous Elimination Program, is repealed.
- 23 U.S.C. §157, Safety Incentive Grants for the Use of Seat Belts, is repealed.
- 23 U.S.C. §155, Access Highways to Public Recreation Areas on Certain Lakes, is repealed.
- 23 U.S.C. §160, Reimbursement for Segments of the Interstate System Constructed Without Federal Assistance, is repealed.
- 23 U.S.C. §162, National Scenic Byways Program, is repealed.
- 23 U.S.C. §212, Inter-American Highway, is repealed.
- 23 U.S.C. §216, Darien Gap Highway, is repealed.
- 23 U.S.C. §217, State Coordinators, is amended by striking subsection (d) and redesignating the other subsections accordingly.
- 23 U.S.C. §218, Alaska Highway, is amended by striking the first 2 sentences in subsection (a), “No expenditures” in paragraph (C), and all of subsection (b).
- 23 U.S.C. §303, Management Systems, is repealed.
- 23 U.S.C. §309, Cooperation with Other American Republics, is repealed.
- 23 U.S.C. §319, Landscaping and Scenic Enhancement, is amended by striking subsection (b).
- 23 U.S.C. §322, Magnetic Levitation Transportation Technology Deployment Program, is repealed.
- Section 1117 of SAFETEA-LU, Transportation, Community, and System Preservation Program, is repealed.
- Section 1301 of SAFETEA-LU, Projects of National and Regional Significance, is repealed.
- Section 1302 of SAFETEA-LU, National Corridor Infrastructure Improvement Program, is repealed.
- Section 1305 of SAFETEA-LU, Truck Parking Facilities, is repealed.
- Section 1306 of SAFETEA-LU, Freight Intermodal Distribution Pilot Grant Program, is repealed.
- Section 1307 of SAFETEA-LU, Deployment of Magnetic Levitation Transportation Projects, is repealed.
- Section 1308 of SAFETEA-LU, Delta Region Transportation Development Program, is repealed.

- Section 1404 of SAFETEA-LU, Safe Routes to School Program, is repealed.
- Section 1410 of SAFETEA-LU, National Work Zone Safety Information Clearinghouse, is repealed.
- Section 1411 of SAFETEA-LU, Roadway Safety, is repealed.
- Section 1502 of SAFETEA-LU, Highways for LIFE Pilot Program, is repealed.
- Section 1604(b) of SAFETEA-LU, Express Lanes Demonstration Program, is repealed.
- Section 1604(c) of SAFETEA-LU, Interstate System Construction Toll Pilot Program, is repealed.
- Section 1803 of SAFETEA-LU, America's Byways Resource Center, is repealed.
- Section 1804 of SAFETEA-LU, National Historic Covered Bridge Preservation, is repealed.
- Section 1807 of SAFETEA-LU, Nonmotorized Transportation Pilot Program, is repealed.
- Section 1906 of SAFETEA-LU, Grant Program to Prohibit Racial Profiling, is repealed.
- Section 1907 of SAFETEA-LU, Pavement Marking Systems Demonstration Projects, is repealed.
- Section 1958 of SAFETEA-LU, Limitation on Project Approval, is repealed.

#### SUBTITLE G – MISCELLANEOUS

##### *Sec. 1701. Transportation enhancement activity defined.*

This section amends the definition for 'transportation enhancement activity' in 23 U.S.C. §101(a).

##### *Sec. 1702. Pavement markings.*

This section amends 23 U.S.C. §109 by prohibiting the Secretary from approving pavement marking projects that use glass beads containing more than 200 parts per million of arsenic or lead.

##### *Sec. 1703. Rest areas.*

Subsection (a) amends 23 U.S.C. §111 by adding a provision that prohibits the changing of the boundary of any Interstate system right-of-way for construction of an automotive service station or other commercial establishment. A new subsection (b) is added to allow a state to establish a rest area along the Interstate. The rest area may be operated by a private entity to provide limited commercial service. Revenues received from the operation of such rest areas shall be used by the state for other rest areas in the state.

Subsection (b) allows, under specific circumstances, sponsorship signs of rest areas.

##### *Sec. 1704. Justification reports for access points on the Interstate system.*

This section amends 23 U.S.C. §111 by adding a new subsection (e) at the end to allow the state transportation department to approve a justification report for an access point on the Interstate system if such a report is requested.

*Sec. 1705. Patented or proprietary items.*

This section amends 23 U.S.C. §112 by adding a new subsection (h) at the end to require the Secretary to approve the use of a patented or proprietary item with federal funds if the state certifies that no suitable alternative exists, that the patented or proprietary item will be labeled as such in bid documents, and any patented or proprietary items will be available to complete the project.

*Sec. 1706. Preventive maintenance.*

This section amends 23 U.S.C. §116 by adding a new subsection (e) at the end to add definitions for "preventive maintenance" and "pavement preservation programs and activities."

*Sec. 1707. Mapping.*

Subsection (a) amends 23 U.S.C. §306 to require the Secretary to carry out this section and modify the appropriate role of state governments. A new subsection (c) is added at the end which requires the Secretary to develop a process for the oversight and monitoring of the compliance of each state with guidance from subsection (b).

Subsection (b) requires the Secretary to conduct a survey of all states to determine what percentage of projects in each state utilized private sector sources for mapping and surveying services.

*Sec. 1708. Funding flexibility for transportation emergencies.*

This section adds a new 23 U.S.C. §330. It allows the chief executive of a state to use any amounts apportioned to that State for the repair or replacement of a transportation facility that the chief executive has declared as a state of emergency. The emergency declaration requirements that a chief executive must meet in order to qualify for this section are defined. In addition, the terms "covered funds", "emergency", and "transportation facility" are defined.

*Sec. 1709. Budget justification.*

This section amends subchapter I of chapter 3 of title 49 U.S.C. by adding a new section, section 310. Section 310 requires the Secretary and the head of each modal administration to submit a budget justification with the President's annual budget submission to Congress.

*Sec. 1710. Extension of over-the-road bus and public transit vehicle exemption from axle weight restrictions.*



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This section amends section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 by changing the heading of paragraph (1), striking the date in paragraph (1), and striking the date in paragraph (2)(A).

*Sec. 1711. Repeal of requirement for Interstate designation.*

This section amends section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 by allowing the designated routes to be designated as a route on the Interstate system if they meet the requirements in section 109(b) of title 23.

*Sec. 1712. Retroreflectivity.*

This section requires the Secretary to remove all compliance dates for highway sign retroreflectivity requirements in the Manual on Uniform Traffic Control Devices.

*Sec. 1713. Engineering judgment.*

This section requires the Secretary to issue guidance to states to clarify that standards for the design and application of traffic control devices shall not be considered a substitute for an engineering judgment.

*Sec. 1714. Evacuation routes.*

This section requires each state to give adequate consideration of evacuation routes when allocating funds apportioned under title 23, U.S.C.

*Sec. 1715. Truck parking.*

This section requires the Secretary to conduct a survey of each state to develop a system of metrics to measure the adequacy of commercial motor vehicle parking facilities in the state, assess the commercial motor vehicle traffic volume in the state, and evaluate the capability of the state to provide adequate parking and rest facilities for commercial motor vehicles engaged in interstate transportation. Eligible truck parking projects a state may obligate funds towards is defined. In addition, it establishes electric vehicle charging stations as an eligible activity.

*Sec. 1716. Use of certain administration expenses.*

This section allows funds made available in 23 U.S.C. §104(a) to be used for no more than \$2,000,000 for operating the national work zone safety information clearinghouse, the public road safety clearinghouse, and providing work zone safety grants.

If the Secretary elects to use funds for work zone safety grants, the grants may include eligible training courses on guardrail installation, guardrail maintenance and guardrail inspection. Other eligible training courses include identification of engineering improvements at crash locations for law enforcement personnel, and traffic control for emergency responders.

*Sec. 1717. Transportation training and employment programs.*

This section encourages the Secretary of Education and the Secretary of Labor to use funds for training and employment education programs to encourage development of transportation-related careers and trades.

*Sec. 1718. Engineering and design services.*

This section directs state department of transportation's to utilize commercial enterprises for the delivery of engineering and design services, to the maximum extent practicable.

*Sec. 1719. Notice of certain grant awards.*

This section requires the Secretary to provide written notice of a covered grant award of at least \$500,000 three business days prior to announcing it publicly.

*Sec. 1720. Miscellaneous parking amendments.*

This section amends 23 U.S.C. §137(a), §142(a)(1), and §205(d) to allow electric vehicle charging stations to new or previously funded parking facilities to be eligible in this section.

*Sec. 1721. Highway Buy America provisions.*

This section amends 23 U.S.C. §313 to apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under NEPA, regardless of the funding source of such contracts.

*Sec. 1722. Veterans preference in highway construction.*

This section amends 23 U.S.C. §114 by adding a new subsection, subsection (d). It requires recipients of federal financial assistance under this chapter to ensure that contractors working on a highway project funded using such assistance give preference in the hiring or referral of laborers on any project for the construction of a highway to veterans who have the appropriate skills and abilities to perform the work required for the project.

*Sec. 1723. Real-time ridesharing.*

This section amends 23 U.S.C. §101(a)(2) by defining "real-time ridesharing" as a carpool project.

*Sec. 1724. State autonomy for culvert pipe selection.*

This section requires the Secretary to modify section 635.411 of title 23 U.S.C. to ensure that states have the autonomy to determine culvert and storm sewer material types to be included in the construction of a project on a federal-aid highway. This section shall not be construed to

undermine or eliminate in whole or in part, competitive bidding requirements in section 112 of title 23 regarding highway construction.

*Sec. 1725. Equal opportunity assessment.*

This section requires the Secretary to assess the extent to which nondiscrimination and equal opportunity exist in the construction and operation of federally funded transportation projects, programs, and activities.

## TITLE II – PUBLIC TRANSPORTATION

*Sec. 2001. Short title; amendments to title 49, United States Code.*

The short title is the “Public Transportation Act of 2012”.

Amendments or repeals referenced in this section are to title 49, United States Code.

*Sec. 2002. Definitions.*

This section amends 49 U.S.C. §5302(a) general definitions to increase the amount of federal transit formula funding that a state or transit agency can expend for paratransit and other Americans with Disabilities Act transportation services from 10 to 15 percent of the recipient's annual formula apportionment. This section also adds a new defined term, “rural area”, to describe an area of under 50,000 in population. This term is synonymous with the terms “nonurbanized areas” and “areas other than urbanized areas” otherwise utilized in this chapter.

*Sec. 2003. Planning programs.*

This section makes minor amendments to 49 U.S.C. §5305 to conform with the unified planning title.

*Sec. 2004. Private enterprise participation.*

This section amends 49 U.S.C. §5306(a) by striking “, as determined by local policies, criteria, and decision-making”.

*Sec. 2005. Urbanized area formula grants.*

This section amends 49 U.S.C. §5307(b) regarding the general authority for urbanized area formula grants. Currently, only urbanized areas of less than 200,000 in population can utilize urbanized area formula grant funds for up to 50 percent of operating costs of equipment and facilities, after netting out fare-box revenues. This amendment extends operating flexibility to small transit agencies operating in areas greater than 200,000 in population. Those agencies that operate fewer than 75 buses in peak service hours can utilize formula grant funds for up to 50 percent of net operating costs, and agencies that operate between 76 and 99 buses can utilize

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formula grant funds for up to 25 percent of net operating costs. This provision does not limit the amount of a transit agency's federal grant apportionment that can be used for operating expenses, rather, the federal funding limitation applies to the percentage of the net operating costs for the system's operations.

This section also strikes subparagraph (d)(1)(k) that requires transit agencies to expend 1 percent of urbanized area formula grant funds on transit enhancements.

*Sec. 2006. Capital investment grants.*

This section amends 49 U.S.C. §5309, rewriting the federal new start and small start program to simplify, streamline, and speed up the project development and evaluation process while retaining the program's competitive and mode-neutral character.

The new section 5309 language gives the Secretary the authority to make grants to assist state and local governments in financing new fixed guideway capital projects. There are two types of new fixed guideway capital projects: new start projects, which involve federal assistance under this section of more than \$75 million, and small start projects, which involve less than \$75 million federal assistance under this section and have a total project cost of less than \$250 million. Section 5309 no longer includes authority for fixed guideway modernization projects; these projects are authorized under 49 U.S.C. §5337. Section 5309 no longer includes authority for bus purchases for rehabilitation and replacement; these projects are now authorized in a formula program under 49 U.S.C. §5310. The Secretary cannot approve a grant unless it is determined that the project is a part of a long-range transportation plan and the applicant has the necessary legal, financial, and technical capacity to carry out a project.

Subsection (d) directs that new start projects be carried out through a full funding grant agreement. Only projects that are authorized for project development, have been adopted in the local transportation plan as the locally preferred alternative, and are rated as high, medium-high, or medium can receive financial assistance. Project benefits are evaluated on the basis of cost effectiveness, mobility and accessibility benefits, congestion relief, reduction in energy consumption, economic development effects, and private contributions to the project. Local financial commitment is evaluated on the basis of adequate contingency funds, local funding sources for capital and operations that are stable and reliable, the use of private contributions and public-private partnerships, the extent to which the local financial commitment exceeds the required match, and whether any elements of the total public transportation system have been or will be financed without federal funding. Each criteria is evaluated on a five-point scale, and all criteria must be given comparable, but not necessarily equal, numerical weight.

Subsection (e) sets the requirements and grant assistance criteria for small start projects. Projects that require less than \$25 million in federal assistance under this section can be exempt from the evaluation process, or can utilize special warrants to expedite the project's advancement through the evaluation process. Projects must be adopted as the locally preferred alternative in local transportation plans and have a local financial commitment that is stable and dependable. Project benefits are evaluated on the basis of cost effectiveness, mobility and accessibility benefits, congestion relief, and economic development effects. The Secretary is directed to

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assign a rating for each criterion on a five-point scale based on the benefits of the project and local financial commitment. The Secretary may execute an expedited grant agreement to include a commitment to provide funding for the project in future fiscal years if federal assistance cannot be provided in a single grant. The Secretary is required to notify the appropriate committees of Congress 10 days before making a grant award or agreement. Small starts projects include corridor-based bus projects if a majority of the project operates in a separate right-of-way during peak operating hours, or the project represents a substantial investment in a defined corridor.

Subsection (f) exempts projects that have already entered final design or that are under a letter of intent, early systems work agreement or a full funding grant agreement before the date of enactment from the new program requirements set forth in subsections (d) and (e).

Subsection (g) defines the rules for issuing letters of intent, full funding grant agreements, and early systems work agreements. For both full funding grant agreements and early system work agreements, repayment to the Government is required if the applicant does not carry out the project for reasons within the project sponsor's control. Before and after studies are required for each project, in order to compare estimated project costs, benefits, and ridership to actual data once the project has been built. The subsection limits the amount of contingent commitment authority for the post-authorization period to be equal to the total of the last three fiscal years of new start funding. Finally, this subsection requires a Congressional notification period of 21 days when a full funding grant agreement is to be entered into, and 10 days when a letter of intent or early system work agreement is to be entered into.

Subsection (h) directs the Secretary to estimate the net capital project cost of a new fixed guideway capital project. Grants shall be for 80 percent of the net capital project cost unless the grant recipient requests a lower grant percentage. However, project sponsors are incentivized to "overmatch" because it will improve the project's local financial commitment rating.

Subsection (i) grants the Secretary the power to pay the Government's share of the net capital project cost if the state or local authority carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements.

Subsection (j) establishes a period of availability for new fixed guideway capital projects of 3 fiscal years after the fiscal year in which the funds are appropriated. Unobligated funds after such period shall be rescinded and deposited in the General Fund of the Treasury for the sole use of deficit reduction.

Subsection (k) requires the Secretary to submit to Congress an annual report on funding recommendations for new start projects. It also requires a biennial GAO review of the Secretary's implementation of the fixed guideway capital project evaluation and rating process.

Subsection (l) requires the Secretary to submit to Congress a report containing a summary of the results of the before and after studies required under subsection (g)(2)(C).

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Subsection (m) sets aside \$150 million for each of fiscal years 2013 through 2016 for small start projects, with the remainder allocated for new start projects.

Subsection (n) requires the Secretary to develop and utilize special warrants to advance projects and provide federal assistance under this section. Special warrants may be utilized to advance new fixed guideway projects without requiring evaluations and ratings.

Subsection (o) directs the Secretary to issue regulations establishing new program requirements for the programs created under this section with 240 days of enactment of the Public Transportation Act of 2012.

*Sec. 2007. Bus and bus facilities formula grants.*

This section amends 49 U.S.C. §5310. The previous section 5310 program, formula grants for special needs of elderly individuals and individuals with disabilities, has been consolidated in the new coordinated access and mobility program under 49 U.S.C. §5317. The new bus and bus facilities formula grants program directly replaces the previous 49 U.S.C. §5309 discretionary bus and bus facilities grants program with a predictable formula, allowing states, transit agencies, and local governments to more effectively plan for bus fleet and facilities replacement and expansion.

The new section 5310 bus and bus facilities formula grant programs gives the Secretary the authority to assist states and local governmental authorities in financing capital projects to construct bus-related facilities and replace, rehabilitate and purchase buses and related equipment. Eligible recipients are providers of public transportation in urbanized areas that operate fixed route bus services but do not operate heavy rail, commuter rail, or light rail services. The effect of this limitation on eligibility is to direct more of the funding under this program to suburban and small urban systems. A recipient that receives a grant may allocate it to subrecipients that are public agencies, private companies, or private nonprofit organizations.

Grants under this section shall be distributed on a formula basis as provided in 49 U.S.C. §5336 (other than subsection (b)). Capital project grants shall be for 80 percent of the net project cost of the project, though the recipient may provide additional local matching amounts.

Grants apportioned under this section are available for three years after the fiscal year in which the grant is apportioned, and grant funds that remain unobligated at the end of that period may be reapportioned the following fiscal year.

The chief executive officer of a state may transfer any part of the state's funds made available under this section to urbanized areas of less than 200,000 in population or to rural areas in the state. Urbanized areas with a population of at least 200,000 may transfer a part of its grant funds to the chief executive officer of a state.

49 U.S.C. §5302, §5318, §5323(a)(1), §5323(d) and (f), §5332, and §5333 all apply to this section and to a grant made with funds apportioned under this section.

*Sec. 2008. Rural area formula grants.*

This section amends 49 U.S.C. §5311, formerly known as formula grants for other than urbanized areas. Subsection (b) sets forth program goals. Subsection (c) amends the rural transit assistance program, which provides onsite technical assistance to local and regional governments and agencies in rural areas, to require that contracts be competitively selected. Subsection (d) amends the apportionment formula to states, providing that 70 percent of funds be apportioned according to a state's rural population in ratio to the entire country's rural population; 20 percent be apportioned according to a state's rural land area in ratio to the entire country's rural land area; and 10 percent be apportioned according to service factors, including ridership and revenue vehicle miles. Apportioning a small percentage of funds according to service factors will incentivize states to improve rural transit system performance. Subsection (f) decreases the amount of grant funds under this section that a state can use for administrative expenses, planning, and technical assistance from 15 percent to 10 percent.

Subsection (h) amends subsection 5311(g) regarding Government's share of costs. The new provision allows states to use private intercity bus operator capital cost contributions towards feeder bus service and connecting unsubsidized intercity bus route segments as local match for intercity bus service carried out within a state and supported by funding under this section. This provision codifies a pilot program that has been carried out by the FTA since 2006, and will help states retain effective intercity bus routes, especially in rural areas.

*Sec. 2009. Transit research.*

This section consolidates transit research programs currently spread through 49 U.S.C. §5312, §5313, §5314, and §5315 into a single transit research authorization. Amounts made available under 49 U.S.C. §5338(c) for transit research under this section and for technical assistance and training under 49 U.S.C. §5322 are available to the Secretary for grants, contracts, cooperative agreements, or other agreements. The Secretary is authorized to establish a Government share of project costs that is consistent with potential financial benefits to an entity under a research grant or contract. The transit cooperative research program formerly authorized under section 5313 is authorized in the new subsection (c). The National Transit Institute formerly authorized under 49 U.S.C. §5315 is now authorized as a competitive program under 49 U.S.C. §5322.

*Sec. 2010. Coordinated access and mobility program formula grants.*

This section amends 49 U.S.C. §5317 by consolidating three existing human service transportation formula grant programs into a single, flexible program. The 49 U.S.C. §5310 formula grants for special needs of elderly individuals and individuals with disability, 49 U.S.C. §5316 job access and reverse commute formula grants program, and 49 U.S.C. §5317 New Freedom program are combined in the new Coordinated Access and Mobility Program (CAMP), which provides grants to states and designated recipients in urban areas with flexible human service transportation funding with consistent program eligibilities and requirements.

Subsection (a) includes definitions applicable to this section. Subsection (b) establishes the goals of the CAMP program. Subsection (c) lays out the general authority for grants made under this section, which are to provide public transportation services that meet the special transportation needs of elderly and disabled individuals, including new transit services that exceed the requirements of the Americans with Disabilities Act, and for job access and reverse commute transportation services.

Subsection (d) outlines the formula distribution of funds to grant recipients: 50 percent among designated recipients for urbanized areas with a population of 200,000 or more, 25 percent to states to serve areas populations of less than 200,000, and 25 percent to states to serve rural areas. The Governor of a state may make exceptions if he can certify that all of the objectives of this section are being met in the specified area. The Secretary may establish a minimum apportionment for states and territories.

Subsection (e) establishes a competitive grant process for states and urbanized area recipients of funds. Funds to carry out the activities selected to be funded under this competitive process can be allocated to subrecipients, including nonprofit organizations and private companies. Transportation services for the elderly and people with disabilities are to be carried out by nonprofit organizations or private companies unless a public agency is approved by the grant recipient to coordinate such transportation services, or the public agency certifies nonavailability of nonprofit or private providers of transportation. This is consistent with current law eligibilities under 49 U.S.C. §5310(a)(2).

Subsection (f) directs the Secretary to apply grant requirements for the CAMP program that are consistent with the requirements of 49 U.S.C. §5310, §5316, and §5317 as such sections were in effect before enactment. Subsection (g) lays out requirements that the national CAMP program and activities carried out at the local level that are funded through the CAMP program shall be coordinated with human service transportation activities funded through other federal departments and agencies. Subsection (h) establishes the federal share for the grant program, with capital projects eligible to use federal funds for 80 percent of the net capital costs of the project and operating assistance capped at 50 percent of the net operating costs of the project. The federal lands program sliding scale is applied to this federal match, meaning that states with large federal lands holdings have a slightly higher federal match.

Subsections (i) and (j) carry over current law language from 49 U.S.C. §5310 regarding leasing vehicles and meal delivery for homebound individuals. Subsection (k) directs the Comptroller General to conduct two studies evaluating the CAMP grant program and submit the results to Congress, two and four years after enactment, respectively. The GAO studies shall include an analysis and description of how CAMP program grant activities are coordinated with transportation activities carried out with grants to state and community programs on aging that are authorized under Title III of the Older Americans Act of 1965.

The Committee expects FTA to continue its practice of providing maximum flexibility to job access projects that are designed to meet the needs of individuals who are not effectively served by public transportation. The Committee recognizes the value of car loan and acquisition



programs to improve access to jobs and services, including education and job training activities, and directs FTA to ensure the continued eligibility of car loan programs

*Sec. 2011. Training and technical assistance programs.*

This section amends 49 U.S.C. §5322 by consolidating the authorization for national technical assistance. Subsection (c) incorporates the national training program under the National Transit Institute, formerly authorized under 49 U.S.C. §5315, allowing the Secretary to competitively award grants or enter into contracts with a public university to establish a National Transit Institute to support training and educational programs for public transportation employees. Subsection (d) allows the Secretary to enter into competitively selected contracts or cooperative agreements to provide public transportation-related technical assistance in the areas of Americans with Disabilities Act compliance, coordinated human service transportation, meeting the transportation needs of the elderly, and additional areas of technical assistance, mobility management services, support services, training, and research that the Secretary determines will assist public transportation providers in meeting the goals of this section. Subsection (e) directs training and outreach programs and technical assistance to be paid for with funds authorized under 49 U.S.C. §5338(c).

*Sec. 2012. General provisions.*

Subsection (a) amends 49 U.S.C. §5323(i) regarding the Government's share of costs for certain projects. A new paragraph (3) is added to this subsection that will incentive a greater use of vanpool services by: (1) allowing public transit agencies and local governments to use vanpool passenger fare revenue in excess of operating costs as matching funds for federal transit grant funds, and (2) by allowing private vanpool operators to use passenger fare revenues in excess of operating costs for the acquisition of additional van equipment if the vans will be used only within the federal grant recipient's transportation service area. A new paragraph (4) is added to this subsection that incentives competitive contracting in public transportation by allowing a 90 percent federal share for federal transit capital grants if the transit agency or grant recipient competitively contracts at least 20 percent of its fixed route bus service. A maintenance of effort clause ensures that state and local funding for transit services must be maintained at a level at least equal to the average of the previous 3 fiscal years.

According to Transportation Research Board Special Report 258, "Contracting for Bus and Demand-Responsive Transit Services", 60 percent of federal transit funding recipients providing some portion of transit services through contract. Overall, contracting is much more common in demand-response human service transportation (76 percent) than in fixed-route bus service (15 percent). Additionally, about one-third of commuter rail services are contracted out. Based on National Transit Database reporting, the cost savings from privately contracted services are substantial. On average, the operating cost per revenue mile for contracted fixed route bus service is \$6.25, compared to \$9.79 for directly operated service, a 36 percent cost savings. Competitive contracting can be a tool to maximize the value of federal investment in public transportation and help preserve needed transit services. The competitive contracting incentive language under section 5323(i)(4) does not in any way alter applicable labor protection requirements under this chapter.

Subsection (b) adds a new subsection (q) to 49 U.S.C. §5323, requiring grant recipients to provide reasonable access for intercity and charter transportation operators to public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes.

Subsection (c) addresses an exemption from the general prohibition on public transportation agencies providing charter bus operations in competition with private bus operators under 49 U.S.C. 5323(d). For the last 3 fiscal years, a single public transit agency has been exempted from enforcement of the charter bus prohibition by a legislative general provision in the annual appropriations bill. This subsection provides that, if the Secretary is prohibited by law from enforcing the charter prohibition, a transit agency covered under this exemption shall be precluded from receiving its urbanized area formula grant funds for that fiscal year.

*Sec. 2013. Contract requirements.*

This section amends 49 U.S.C. §5325(h) by striking “Federal Public Transportation Act of 2005” and inserting “Public Transportation Act of 2012”.

*Sec. 2014. Veterans preference in transit construction.*

This section amends 49 U.S.C. §5325 regarding contract requirements by adding a new subsection (k) requiring grant recipients to ensure that contractors utilizing federal transit grant funds give a hiring preference to veterans who have the requisite skills and abilities to perform the construction work required under the contract.

*Sec. 2015. Private sector participation.*

This section amends chapter 53 of title 49, U.S.C. by including new language regarding private sector participation in public transportation. Under subsection (b), the Secretary is directed to take actions to promote better coordination between public and private sector providers of public transportation, by providing technical assistance to grant recipients on practices and methods to best utilize private providers and educating recipients on federal transit laws and regulations that impact private providers. Under subsection (c), upon request by a new start project sponsor, the Secretary is directed to provide technical assistance for alternative project delivery methods, including identifying best practices for public-private partnerships (P3's), development of standard P3 model contracts, and performing financial assessments to calculate the public and private benefits of a P3 transaction.

Subsection (c) requires the Secretary to identify provisions of chapter 53 of title 49, U.S.C. that impede greater use of P3's and private investment in public transportation, and to procedures and approaches to address such impediments in a manner similar to FHWA's SEP-15 initiative. The Secretary is required to issue a rulemaking implementing the procedures and approaches developed under this new initiative, and to report to Congress four years after enactment on the status of the procedures and approaches developed and implemented under this subsection.